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ABSTRACT OF THE PROCEEDINGS

OF

THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA,

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS,

1894,

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Government of India Central Printing Office.—No. 423 L. D.—22-1-95.—330.—E. H.

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Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Government House on Thursday, the 4th January, 1894.

PRESENT:

His Excellency the Viceroy and Governor General of India, G.C.M.G., G.M.S.I., G.M.I.E., *presiding.*
His Honour the Lieutenant-Governor of Bengal, K.C.S.I.
His Excellency the Commander-in-Chief, K.C.B., G.C.I.E., V.C.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble J. Westland, C.S.I.
The Hon'ble Sir A. P. MacDonnell, K.C.S.I.
The Hon'ble Dr. Rashbehary Ghose.
The Hon'ble Sir G. H. P. Evans, K.C.I.E.
The Hon'ble C. C. Stevens.
The Hon'ble J. Buckingham, C.I.E.
The Hon'ble A. S. Lethbridge, M.D., C.S.I.
The Hon'ble Gangadhar Rao Madhav Chitnavis.
The Hon'ble H. F. Clogstoun, C.S.I.
The Hon'ble W. Lee-Warner, C.S.I.
The Hon'ble P. Playfair.

NEW MEMBERS.

The Hon'ble GANGADHAR RAO MADHAV CHITNAVIS, the Hon'ble MR. CLOGSTOUN, the Hon'ble MR. LEE-WARNER and the Hon'ble MR. PLAYFAIR took their seats as Additional Members of Council.

PRESIDENCY SMALL CAUSE COURTS ACT, 1882, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill to amend the Presidency Small Cause Courts Act, 1882, be referred to a Select Committee consisting of the Hon'ble Sir Antony MacDonnell, the Hon'ble Sir Griffith

Evans, the Hon'ble Dr. Rashbehary Ghose, the Hon'ble Mr. Mehta, the Hon'ble Mr. Playfair and the Mover. He said:—

"It will be in the recollection of some at least of the Members of. Council that last session I had proposed to send this Bill to a Select Committee which was practically the same as the Committee now named, except that new names have been substituted for those who have ceased to be Members of the Council and therefore of the Committee. The Bill, however, stood over to await certain replies. Those replies have since been received from various quarters and they run to some length. I do not mean to trouble the Council with the whole of them, but I must refer to some of them in the course of what I have to say. I do not know that I ever have seen a more remarkable case of difference of opinion than that which I find in the papers below me. I think the well-known quotation "quot homines, tot sententiæ," thoroughly applies to them. There is but one thing in which they are all agreed. They all agree that something ought to be done to alter the existing law, but I can hardly find any two of them that agree as to what that something ought to be. Under the circumstances all that I can do will be to place all these opinions in the hands of the Members of the Select Committee, if nominated, and to hope that the labours of the Committee may evolve out of this mass of varying opinions something which will be substantially acceptable to the whole of the community.

"The first question arises on section 2 of the Bill. Section 2 of the Bill proposes to deal with the constitution of the Court. As the law at present stands, one-third at least of the Judges of the Court must be barristers or advocates—and one-third means two in the present case; but for the remaining Judges there is absolutely no qualification whatever prescribed. The Bill proposes to alter that by prescribing a qualification for all the Judges, and in deference to an opinion expressed, I think, in the Home Department, though I am not positive as to this, that when there was a qualification for all the Judges it was no longer necessary to keep up a separate qualification for some of them, it has been proposed to limit the necessity for being a barrister or an advocate to the Chief Judge. To that proposal objection has been taken, of a somewhat remarkable nature, namely; first of all, it was said that the advocates mentioned in the present rule might be roughly described as practising barristers. That of course is right. Then it is said, as an objection, that the Chief Judge must indeed under the Bill be a barrister or an

advocate, but that that he need not be a professional man, or have ever actually practised as a barrister. Now, with all deference to those who take this point, I must say that "this is the very false gallop of" criticism. There is not one word in the Bill to alter the qualification of the Chief Judge as it stands at present. Under the existing law he must be a barrister or an advocate; that qualification would be treated as a practising barrister, not as a mere ornamental barrister. Under the new law he would be just as much and just as little required to be a practising barrister, and I cannot for one moment think that it would ever enter the head of any Local Government to appoint as Chief Judge a man who had had no practice at the Bar. So that, so far as the objection goes that the Chief Judge need not be a professional man, the law is not proposed to be altered, and the objection does not really exist. On the other point, I am bound to say that there is a large consensus of opinion, though not by any means universal, that the rule by which at least one-third of the Court should consist of men who had practised at the Bar should be maintained, and all I can say is, that, if the Select Committee desire to retain that rule, I have no objection; on the contrary, if I were forming a Court for the first time, I would require every Judge to be a man who had some forensic training, by which I mean not merely the technical position of having been "called to the Bar," but practical experience gained by actual practice. But though that might be a very reasonable rule to lay down when creating a new Court, it is a very different thing to say that it would be desirable to apply that rule to an existing Court very differently constituted. Then it is argued that the other Judges require no qualification at all. That seems to me to be perfectly contradictory of the previous argument as regards the necessity of retaining one-third of the Court as barristers. I agree with the view expressed by the High Court of Calcutta, that it is desirable that whenever a professional man, in which I include, of course, a practising vakil, who may be just as competent as any man called to the Bar,—that whenever a professional man can be obtained, it is desirable that he should be obtained and that we should not go outside the ranks of the forensic profession for a Judge. The Bill, however, does not go so far as this, but recognizes service as a Subordinate Judge even without any forensic experience as a sufficient qualification. But at present all I am concerned to say is, that it seems to me absolutely essential that there should be some sort of professional qualification for every man who is appointed a Judge. Whether the qualifications in the Bill are the best or not is a matter which I would be

willing to leave, with one exception, to the views of the Select Committee; but I am bound to say that I would rather the Bill were abandoned altogether than allowed to pass, leaving, as things stand at present, Judges who might be appointed having no professional qualification whatever..

"The only other point as regards this section upon which I wish to say anything is as regards the proposal that the Judges to be appointed shall be of five years' standing in their qualifications. It has been objected to that that the standing is not enough, and it has also been objected that the standing is too much. I think myself that five years is a very low qualification, but I am unable to propose a higher one, because by a law of the British Parliament which we cannot alter, that is the qualification imposed for Judges of the High Court, and it would be absurd in us, I think, to propose to create a Small Cause Court in India, the qualifications of the Judges of which should be higher than those imposed by the Parliament of the United Kingdom for the qualifications of the Judges of the High Court. I am, therefore, unable—though I am personally in agreement with the Government of Bombay and others who have suggested seven instead of five years—to propose that the qualification should be more than five years, because it would lead to the inconsistency which I have mentioned. It is quite true that I do not suppose that there ever was, or could be, an appointment of a gentleman of anything like so little as five years' standing to the position of a Judge of the High Court. I am sure if such a thing were done it would produce a storm, both here and in England. I rather think there is no Judge of any High Court who was appointed on less than fifteen years' standing, and I should say that the average was nearer twenty years. But I regret that, the qualification for the High Court being five years, I cannot propose to increase that qualification with regard to the Judges of this Court.

"The eighth section of the Act as it stands contains a provision which I propose to ask the Select Committee to alter, though it is a point upon which I feel less strongly than upon that regarding the professional qualification. As the Act stands at present, section 8 after providing for the status of the Chief Judge, runs thus—

'The other Judges shall have rank and precedence as the Local Government may, from time to time, direct.'

"Now, there is not, so far as I know or believe, any Court in the civilised world—there certainly is not any British Court—in which the

Judges other than the Chief Justice or the Chief Judge have any difference in rank or precedence other than that which follows from the dates of their appointments, and to place it in the hands of the Executive Government of any country to alter the precedence of the Judges of the Court generally, as distinguished from their right to designate the Chief Judge, would be to do the very thing which the English constitution has been labouring to avoid ever since the Revolution, that is, to keep the Judges dependent on the favour of the Executive. Even in the smaller Courts it is desirable to avoid this as far as possible, and therefore I propose in the Select Committee to alter that clause by saying that the other Judges of the Court shall have rank and precedence according to the dates of their respective appointments; but, as I said, that is a matter upon which I do not feel the same strong opinion which I do with respect to the necessity that every Judge shall have a professional qualification, and, if the Select Committee or this Council differ from me, I shall be perfectly satisfied to acquiesce in their view.

"The third section is objected to only, I think, by the Government of Madras and by Mr. Justice Parker, who writes very strongly on the point. I must read what he says. It is due to him to do so, although I think that I can satisfy the Council that he has misunderstood the operation of the clause. He says:—

'I strongly protest against sections 3 and 6 of the new Bill. The practical effect of them is to repeal the Civil Procedure Code altogether as far as the Presidency Small Cause Court is concerned, and to turn the High Court into a Legislative body with power to enact an entirely new Code of Civil Procedure for the Presidency Small Cause Court. It may be desirable that the High Court should have power to make supplementary rules consistent with the Civil Procedure Code for the regulation of the procedure in the Small Cause Court, but such powers can be given by the extension of section 652, Code of Civil Procedure, to the Small Cause Court. But that the High Court should have power to pass rules in supersession of the law of the land seems to me a complete departure from all sound principles of legislation.'

"Now, the facts are that the provisions of the Code of Civil Procedure are not adapted in all respects to summary proceedings, and that the rules which have been made for the Small Cause Courts are, by common consent, cumbrous and dilatory; and various proposals for alterations of them were made and considered at great length not only in the Home Department of the Government of India, but also by the Local Governments, and there was a general

consensus of opinion that, whilst the Code of Civil Procedure was to continue to be the basis of the procedure in all Courts in the country, the Judges of the High Court were the best persons to judge and determine when the Code of Civil Procedure might, for purposes of these summary proceedings, be set on one side, and what would be the best thing to substitute for the provisions of the Code. It is not intended, it never was intended, and there certainly is not one word in the Bill which could be construed into such an intention, to set aside the Code of Civil Procedure altogether. All that is done is, that it is proposed to leave in the hands of the Judges of the several High Courts a power which at present is exercisable by the Judges of the Small Cause Courts themselves, with the consent of the Local Government; but it has not been found to work as it is, and the opinion has been generally formed, that the Judges of the High Court are likely to be better able to frame satisfactory rules, particularly as it may very well be that the rules which will fit one Small Cause Court may not be exactly the rules desirable in another Small Cause Court. The Judges of the various High Courts are likely to be the best bodies to frame practical rules, not, however, by any means suggesting that it is necessary for them to set the Code of Civil Procedure aside and to start a new Code for themselves.

"Section 4 of the Bill is a section introduced to enable a plaintiff who has a claim against several different persons, some of whom are, and some are not, within the jurisdiction of the Small Cause Court, to prosecute his claim against those whom he can reach without being obliged to prosecute it against those whom he cannot. It seems to me to be a very reasonable proposition, and it is generally approved; but there is one dissentient gentleman, a man whose opinions are entitled to considerable weight, who proposes instead to allow the plaintiff to sue absent defendants, although the Court has no jurisdiction over them. I confess that that is a strong proposition, and I should hesitate very much before I would propose it. But there are certain amendments proposed which will be brought before the Select Committee which will, I think, get rid of some of the objections raised to the clause. I propose to ask the Select Committee to put in an express provision that the plaintiff shall not only be obliged to abandon that suit, but to abandon his rights altogether, against the absent defendants, without prejudice to any right of contribution which any of the defendants sued may have against them. I do not think that a plaintiff ought to be encouraged to split up his claim and bring a case as to part against *A* today and as to another part against *B* to-morrow, though at the same time it would

be very unfair if *A* having been compelled to pay the whole claim, should be prevented from claiming his proper share from *B*, because the latter was absent. I think, however, that a very simple amendment will get over that difficulty.

"Section 5 is a section which was proposed by the late Mr. Hart, the Chief Judge of the Small Cause Court in Bombay, and it seems to me to have a very useful operation. The only objection that I have seen made to it is one which I think misapprehends the scope and operation of the section. The objection is taken by so important a body as the Judges of the High Court at Calcutta. They say that—

'With regard to section 5 of the draft under consideration, the Judges are of opinion that the provision contained in the proposed new section 19 A is calculated to lead to results of a highly inconvenient character and ought not, therefore, to form part of the Bill. It permits the refusal by the Small Cause Court to certain suits in which questions relating to the title to immoveable property may be raised as incidental to the main issues. Such questions arise collaterally in many cases which may quite properly be decided by a Small Cause Court, and the introduction of the section referred to might, in the view of the Judges, do harm in two ways. In the first place, it would tend to the rejection of a very large number of suits in which no objection, in respect of either the summary nature of the procedure or the competency of the tribunal, could be reasonably taken to the decision for collateral purposes only, of questions connected with title to immoveable property; and, secondly, it would be likely to create much dissatisfaction if parties interested in such cases, a large proportion of which are concerned with claims of small amount, were thereby compelled to have recourse to the higher tribunal which must, of course, retain exclusive jurisdiction in title suits.'

"Now, with great deference to the learned Judges, that seems to me to misapprehend altogether the scope of the section. The section provides that—

'When the right of a plaintiff and the relief claimed by him in the Small Cause Court depend upon the proof or disproof of any right to, or interest in, immoveable property or any other title which the Court cannot finally determine, the Court may at any stage of the proceedings return the plaint to be presented to a Court having jurisdiction to determine the title.'

"It does not interfere with the jurisdiction of the Court in any case in which it now has jurisdiction and in which it would be able if the law remained unaltered to decide the case; but what it does provide is this, that when a case arises such as this, and the Court cannot decide it, because a question

of title has arisen which the Court is not competent to decide, instead of being obliged, as it now is, to dismiss the suit, leaving the plaintiff to begin again in a competent Civil Court, having thrown away all the costs already incurred, it enables the Small Cause Court to transfer the suit into a Court which has jurisdiction to try it, and thereby to save the throwing away of everything that has previously been done. It is exactly analogous to the provision in the English Judicature Acts, whereby when a cause is now brought in the Chancery Division which ought to be heard in the Queen's Bench Division, instead of the suit being dismissed, an order is made transferring the cause from one Division to the other. And it seems to me that, so far from its being a provision which will limit the jurisdiction of the Small Cause Court, the clause merely prevents certain costs which would otherwise have been entirely thrown away from being wasted, in cases where the question of title is one which the Court cannot determine, and the Court cannot determine the suit without having this question of title previously settled. But however the Select Committee may view the question as to whether relief ought, or ought not, to be given to the plaintiff who makes a mistake of this nature, I can only say that I am willing to acquiesce in their decision.

"Section 6 is a section with regard to which I need not trouble you. It is a simple corollary to section 3. And, if section 3, which enables the Judges to make rules, is passed, the repeal of the existing clauses is a matter of course.

"Section 7 is the section which has given rise to perhaps the largest amount of difference of opinion. As the law now stands, there is theoretically no appeal from the decision of the Small Cause Court, but any one who feels himself aggrieved may move the High Court to call for the record, and thereupon, if the High Court thinks fit, the decision may be set aside, and the plaintiff is then permitted to commence a completely new action on the Original Side of the High Court, to have the case determined: that is to say, the form which an appeal is obliged to take is one which is both cumbrous and expensive, and it involves all the delay of a new action and new pleadings, everything which the Small Cause Court is designed to get rid of, but it does not prevent the case from being re-tried. I do not find anywhere in the papers any opinion in favour of the retention of this proceeding, which has been characterised by very high authority as "a hateful clause." Now, the Bill proposes to get rid altogether of that cumbrous proceeding, and to provide instead thereof that any decree in which the subject-matter is of less value than ₹1,000 shall be concluded

in the Small Cause Court without going to the High Court at all, and that any decree in which the subject-matter exceeds ₹1,000, shall be subject to an ordinary appeal. I find that there are no less than three different views on this. I think the view of the majority is that the best course would be to restrict the jurisdiction of the Small Cause Court to suits, the subject-matter of which does not exceed ₹1,000, and thereupon to get out of all difficulty. If that view is taken, although I do not think it is the best, I would not quarrel with it. Another view is to retain the present procedure, only enabling the defendant in any case in which a suit is brought for more than ₹1,000, to remove it into the High Court. That is a somewhat cumbrous proceeding, and, though I myself have no objection whatever to concurrent jurisdiction in different Courts, it is contrary to the scheme and to the spirit of Indian legislation on these matters; and I doubt whether it would be as desirable as limiting the jurisdiction of the Court altogether. Still, it might possibly be found a workable *modus vivendi*, having regard to the fact that there is so much difference of opinion in different localities on the question of limit.

"The third proposal is that which is contained in the Bill. As between the first and the third again, I do not feel any great preference either way. I cannot myself understand how a cause which is worth a thousand rupees can be called a 'small cause,' but it seems to be generally accepted as such. One thing, however, I cannot accept. I cannot, unless I am driven to do so, consent to any man being obliged to leave at issue a question which may cost £150 for decision at a single hearing and before a single Judge. I should like to refer for one moment to what has been said on that subject by the Bombay Chamber of Commerce. The Chamber writes :—

'What my Committee consider is really wanted is an opportunity for the plaintiff to obtain a re-hearing in cases where a fraudulent defence has been set up at the first hearing in the Small Cause Court, which defence could not have succeeded had the procedure at the Small Cause Court enabled the plaintiff to show that the defendant's documents produced in the Small Cause Court were fraudulent, and which he would on a re-hearing be able to do in the High Court, where the whole procedure as regards inspection of documents contained in the Civil Procedure Code obtains. A mere right of appeal will not cover this point, because an appeal can only proceed on the facts and evidence before the Court of First Instance, whereas a right of re-hearing enables the suitor to meet deficiencies in the evidence caused by surprise or otherwise in the First Court. Practically, the position now is that the plaintiff does not know what case he has to meet in the Small Cause Court, and he can be, and no doubt frequently is, met with fraudulent

documents and a fraudulent defence, which the Committee of the Chamber submit should not be possible in suits for so large a sum as R2,000.'

"Of course, if that is done in the first instance, and if the plaintiff has an appeal, he knows by the time he goes to the Court of Appeal what case he has to meet, but it becomes to my mind even more important, in these summarily tried cases, that there should be an appeal than it would be in a case in which there were regular pleadings. In any case of importance the nature of the case to be made by the other side can be more or less gathered from the pleadings, but in a case of summary proceedings is it not possible for a man to know beforehand what the case is that he may have to meet. You do not know what your opponent's case is till you hear it argued, and it is impossible to anticipate what points may arise in such a case until it has been argued before the Court of First Instance.

"I should like, while dealing with that point, to mention what Mr. Justice Starling has said upon the subject. He says:—

'I have always thought that the present practice of applying for a re-hearing, and then having the suit re-heard on the Original Side, rather clumsy, and at the same time involving much waste of time and needless expense, and I have been, and still am, of opinion that it is only fair to suitors to allow an appeal from decrees of the Small Cause Courts when the amount at stake exceeds R1,000.'

"The only objection of any substance that I have seen is this. It is said you will destroy the summary nature of the Court, because it will be necessary for the Judge to take down the evidence, and you must have a judgment. As far as taking down the evidence goes, I do not know that that is necessary, though I think any Judge, in dealing with a case of the value of R1,000 or more, would consider it his duty to take a tolerably good note of the evidence, and I cannot understand any Judge making up his mind and delivering his judgment without having given himself the advantage of having before him a note of the evidence which had been tendered. But it is certainly the duty of every Judge to deliver a judgment, that is to say, to give the public an opportunity of knowing the reasons for which he has come to his decision. It is also the duty—as I pointed out on a former occasion—it is the duty of the appellant, or the person who expects to be an appellant, to provide himself with a sufficient note of the evidence and judgment if he has any reason to suppose that the Judge will not have taken a sufficient

note of the evidence; or that he will not have written his judgment. I have seen appeals over and over again in which, although no doubt a good deal of the evidence was more or less recorded, not one word of the judgment was to be found except that which was noted on the back of counsel's brief; but the Court of Appeal never hesitated to accept what counsel wrote upon the back of his brief as a fair statement of what the Judge had said. It is the duty of every appellant to make out his case, because if he does not do this, the presumption is that the Court below is right. However, as between all these conflicting views, I have stated my own view, and I am willing to a certain extent to leave the matter in the hands of the Select Committee. All I would venture to say in that respect is that, unless a professional qualification of some kind is imposed upon every Judge of the Court, and unless either the jurisdiction of the Court is limited to ₹1,000, or an efficient appeal of some sort is given in all cases above ₹1,000, I personally consider that the Bill will have been "destroyed," and if it comes back from the Select Committee in such a condition, I shall ask leave to withdraw it."

His Excellency THE PRESIDENT said :—"The Hon'ble Legal Member in making this Motion has supported it by a number of arguments of a very technical and, if I may say so without giving him offence, controversial character. I think it due to my hon'ble colleagues, and to myself, to say that the statement of the Hon'ble Legal Member must be taken as representing his own views upon the points with which he has dealt, and not as in any way committing the Government of India. The Select Committee will obviously be entirely unfettered in dealing with this important measure. I have made these observations in order to avoid possible misconception."

The Hon'ble SIR GRIFFITH EVANS said :—"After what has fallen from the Hon'ble Member in charge of the Bill, and from His Excellency the President, I do not propose to trouble the Council with observations of any length. The matter can come before the Select Committee, who will be unfettered. I only now wish to say that, had I found that it was an essential portion of this measure that a system of regular appeals should be introduced into the Calcutta Small Cause Court, I should have felt it my duty to oppose the Bill and to divide the Council on the question that it be referred to a Select Committee; but, as the matter now stands, I do not think it necessary to take this course."

The Motion was put and agreed to.

LAND ACQUISITION ACT, 1870, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER also moved that the Bill to amend the Land Acquisition Act, 1870, be recommitted to a Select Committee consisting of the Hon'ble Sir Antony MacDonnell, the Hon'ble Dr. Rashbehary Ghose, the Hon'ble Mr. Stevens, the Hon'ble Mr. Lee-Warner and the Mover. He said:—

"I am substituting Mr. Lee-Warner's name for that of Sir Charles Pritchard, at Sir Charles Pritchard's request. This Bill passed through Committee last session, and it was merely postponed, because Sir James Mackay was anxious to have time to consider it at the end of the session. Since then a somewhat important paper has come in, in the shape of an opinion by Mr. Ogilvie, who is largely connected with land acquisition in the Punjab, and I have thought it desirable that that paper should be before the Select Committee in order that, with regard to some of the more or less weighty suggestions made in it, the Committee should have an opportunity of determining whether any, and which of them, should be adopted; and therefore I think it advisable that it should be recommitted. This would only perhaps involve one single sitting."

The Motion was put and agreed to.

The Council adjourned to Thursday, the 11th January, 1894.

J. M. MACPHERSON,
Deputy Secretary to the Government of India,
Legislative Department.

CALCUTTA;
The 11th January, 1894.

Government of India Central Printing Office.—No. 379 L. D.—12-1-94.—316.—E. H.

Abstract of the Proceedings of the Council of the Governor General of India assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Government House on Thursday, the 11th January 1894.

PRESENT:

His Excellency the Viceroy and Governor General of India, G.C.M.G., G.M.S.I., G.M.I.E., *presiding*.
His Honour the Lieutenant-Governor of Bengal, K.C.S.I.
His Excellency the Commander-in-Chief, K.C.B., G.C.I.E., V.C.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, C.B , R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble J. Westland, C.S.I.
The Hon'ble Sir A. P. MacDonnell, K.C.S.I.
The Hon'ble Dr. Rashbehary Ghose.
The Hon'ble Fazulbhai Vishram.
The Hon'ble C. C. Stevens.
The Hon'ble J. Buckingham, C.I.E.
The Hon'ble A. S. Lethbridge, M.D., C.S.I.
The Hon'ble Gangadhar Rao Madhav Chitnavis.
The Hon'ble H. F. Clogstoun, C.S.I.
The Hon'ble W. Lee-Warner, C.S.I.
The Hon'ble P. Playfair.

QUESTION AND ANSWER.

The Hon'ble MR. FAZULBHAI VISHRAM asked:—

Whether the Government have any intention of imposing any import-duty on silver, and, if not, whether they will make a public declaration of their intentions in order to relieve the mercantile community of the great anxiety now prevailing amongst them.

The Hon'ble MR. WESTLAND replied:—

"The Government of India regret that it is impossible for them to make, at present, such a declaration as that which the Hon'ble Member's question suggests. They fully understand the anxiety of the mercantile community for information as to this most important subject.

"The commercial situation created by the closing of the mints is engaging their earnest attention, as well as that of Her Majesty's Government, with whom they have been in constant communication on the subject. All that the Government of India can now add is that it is impossible for them, under present circumstances, to make any announcement which would place it out of their power to propose an import-duty on silver if, and when, they consider it desirable to do so."

PRISONERS ACT, 1871, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill to amend the Prisoners Act, 1871, be referred to a Select Committee consisting of the Hon'ble Sir Antony MacDonnell, the Hon'ble Dr. Rashbehary Ghose, the Hon'ble Fazulbhai Vishram, the Hon'ble Dr. Lethbridge and the Mover. He said:—

"The Bill is a very short one, and its object is merely to amend, in some small particulars, which I explained at the time of the introduction of the measure, the Prisoners Act of 1871, which was found not to work satisfactorily in respect to some minor points. I do not think, therefore, that I need trouble the Council at this stage with any further explanation of them."

His Honour THE LIEUTENANT-GOVERNOR said:—"I trust I shall not be considered out of order if I express a hope that when this Bill is laid before the Select Committee it may be redrafted in such a way as to make it somewhat more intelligible to the public and to the officers who will have to act in accordance with its provisions. It is drafted in what I may call an allusive way. In section 16 of the Act, for instance, it is said that for the words 'acting under the authority' the words 'acting, whether within or without British India, under the general or special authority' shall be substituted; and in another case that for the first sixteen words of section 19 of the Act the following words shall be substituted.

"This form of drafting a Bill by reference to the original Act makes the Bill difficult to understand, and I would venture to suggest that it would be easier for persons who have to consider the Bill and afterwards to carry out the Act if the original sections could be printed with the words which it is proposed to substitute in italics so as to show exactly the purport and bearing of the alterations to be made."

11TH JANUARY 1894.] [*Sir Alexander Miller; the Lieutenant-Governor; Sir Antony MacDonnell.*]

The Hon'ble SIR ALEXANDER MILLER said:—"With reference to His Honourthe Lieutenant-Governor's remarks I do not think there will be any difficulty whatever in printing alongside of the Bill the sections as they will stand with the alterations which it is proposed to make. That I think will answer the purpose he desires."

His Honour THE LIEUTENANT-GOVERNOR said:—"That will sufficiently answer the purpose."

The Motion was put and agreed to.

PRISONS ACT, 1870, AMENDMENT BILL.

The Hon'ble SIR ANTONY MACDONNELL moved for leave to introduce a Bill to amend the law relating to Prisons. He said:—

"My Lord, before asking Your Lordship to put to the Council the Motion which stands against my name, I wish, with your permission, to explain as briefly as I can the reasons which have satisfied the Government of India that legislation on this important subject is desirable. It is known to the Council that in England, and in Europe generally, the ideas regarding prison discipline, which prevailed before the end of the last, and even at the beginning of the present, century, were very different from those which are generally accepted at the present day. Even in England, where humane views on the question made more rapid progress than elsewhere, the cause of prison reform, though urged with all the zeal of a Howard and an Elizabeth Fry, made but little way until this century had well begun. It is therefore not surprising that in matters of prison management and discipline India was, to say the least, as backward fifty years ago as England had been before the century had commenced. But in this, as in other matters, the administration of Lord William Bentinck was one of great reform and of greater hope. Until his time our penal system had continued to be largely fashioned on Muhammadan usage, corporal punishment being a principal means of punishing crime. By Regulation II of 1834, which abolished corporal punishment altogether, a response—in some respects an exaggerated response, as we have since found—was made to the growing humanitarian demands of the time, and a pledge was practically given that a system of prison discipline would be introduced which would be in harmony with those ideas on the subject that were daily finding wider acceptance in England. The first step, my Lord, in redemption of this pledge was taken two

years later, and consisted in the appointment of the famous Committee on Prison Discipline, which was composed of the most distinguished Anglo-Indian statesmen and jurists of the day, including one of the foremost exponents of the liberal sentiments of the time, Mr. (afterwards Lord) Macaulay. The report which two years later the Committee presented was worthy of its authors, and remains the solid foundation of all later progress. Though earlier in point of publication, it is really the complement of those other two great works—the Penal Code and the Code of Criminal Procedure—with the first of which Lord Macaulay's name is also imperishably associated.

"The Committee reported in 1838 to the Governor General, Lord Auckland, the son of that Lord Auckland under whose auspices, and those of Mr. Justice Blackstone and Mr. Howard, the first step had been taken sixty years before towards the practical improvement of prison discipline in Great Britain. If, my Lord, the experience of half a century has not in every particular confirmed the forecasts of this admirable report, it has abundantly established the wisdom, expediency and humanity of its main recommendations, which, for the first time in an Eastern country, recognized the true principles of penal administration and of the philosophy and practice of punishment.

"The recommendations of the report of 1838 turned on the congregation in central prisons or penitentiaries of all prisoners sentenced to more than one year's imprisonment; on the retention in district jails of prisoners sentenced to lesser terms of seclusion; and on the provision of intra-mural labour and discipline of a reformatory as well as of a punitive character. To the success of this scheme the construction of central prisons, of which there were, I believe, none in the interior at that time, and of district prisons, of which there were not many worthy of the name, was essential, and this meant the expenditure of money for which the Government seems to have been as badly off fifty years ago as it unhappily is today. Lord Auckland's and Lord Ellenborough's Governments, therefore, did nothing but accept and approve the recommendations of the report, and it was not until Lord Dalhousie's time that progress was made with even its minor suggestions. During the memorable administration of Lord Dalhousie, much good was done here and there on the lines of the report by earnest and zealous men, notably by Mr. Woodcock in the North-Western Provinces; but, after all, their efforts were desultory, and the substantial effect of them will be understood from the following extract which I make from a

minute on the subject of jail discipline in India, recorded by the Governor General, Sir John Lawrence, on the 3rd March, 1864:—

A period of twenty-six years has elapsed since the Prison Committee appointed by Lord William Bentinck submitted their report, in which the ends of the then existing system of jail management were exposed and certain reforms recommended and carried out; but it is generally admitted that the full measure of improvement contemplated by Lord William Bentinck, to which the Government was pledged by a legislative enactment (Regulation II, 1834), has never been carried out.

'Although much good has been effected by the appointment of Inspectors of Prisons in the different Presidencies and Provinces, and though doubtless there has been a great amelioration of the condition of prisoners of all classes in this country, especially as regards food and clothing, yet still little progress has been made either towards the improvement of prisoners or prevention of crime, while the loss of life among all classes of those confined in jails continues year after year to be very great, amounting at present to 7 per cent.'

"As a proof of the great progress which has since been made in the sanitation of jails, I may say, by the way, that the mortality for the last year was 3·59 per cent., or about one-half the rate mentioned by Sir John Lawrence.

"Sir John Lawrence's examination of the condition of jails in India led him to appoint the second Commission of Enquiry into jail management and discipline, and one of the points especially recommended to the Commission's notice as deserving of particular attention was, to quote again the Governor General's words, 'the want of some settled principles which should be observed alike in every jail throughout the country.'

"The Report of the Commission of 1864, proceeding on the lines of the report of 1838, laid down a system of prison discipline which, though with many modifications and additions, may be said to be still in operation. The hope of the Commission was that each Local Government, while accepting the system in principle, might adapt it to local circumstances, so that there might be unity of purpose amid reasonable diversity of practice. But experience has shown that diversity in practice has gone far to obscure the unity of purpose. The Indian Penal Code is the uniform law of offences and punishments throughout British India, and it is obviously necessary and proper that the punishment inflicted under that Code should be uniformly enforced, so that a sentence of imprisonment should have the same meaning and effect in every Province and in every jail of the Empire. This was the goal at

which Sir John Lawrence aimed, and which the Commission he appointed sought to reach. But they failed because the centrifugal tendencies established by local legislation were too strong for the centrepetal force created by their rules. Each of the three great Provinces of Madras, Bombay and Bengal, having a local Legislative Council, provided itself with a local Act regulating jails, while an Act of this Council regulates the jails in those Provinces which have no Legislatures of their own. It naturally followed that jail administration developed on divergent lines in the great divisions of the Empire, while the co-ordinating authority of the Government of India—acting executively—was ineffective to control the divergence. No one, my Lord, is a stronger supporter of provincial decentralization than I am; no one more fully accepts the policy with which the name of your lamented predecessor Lord Mayo is so closely identified, and of which we daily see the abundant fruit. But every rule has, it is said, its exception, and provincial legislation for jails forms one of the exceptions to the competency of Provincial Governments to do most things within their jurisdiction, and to do them well. There are, as I have said, four different Acts in operation connected with jails, and these Acts differ *inter se* in various important points. They differ as to the offences against jail discipline, enumerated in them; they differ as to the punishments which might be inflicted for these offences; and they differ as to the authorities competent to inflict these punishments. No wonder that in the several Provinces divergent systems of jail management have grown up whereby there has been, and is, a sacrifice of that uniform enforcement of sentences which effective penal administration requires. This defect was very clearly perceived so long ago as 1877 by the third Jail Commission, which was appointed by Lord Lytton's Government; and the remedy they proposed was the enactment of a prison law for the Empire which should secure that uniformity of system which was necessary to give (say) a sentence of six months' rigorous imprisonment passed by a Magistrate in Madras or Bombay the same meaning as regards the community and the same effect as regards the individual prisoner as a sentence of six months' rigorous imprisonment passed by a Magistrate in Bengal, the North-Western Provinces or the Punjab.

"The Commission's recommendations were at first well received by Lord Lytton's Government, and a draft Bill was actually prepared in accordance with them. But circumstances were unfavourable to legislation, the matter was postponed, and for ten years longer the Government of India earnestly strove by

executive orders to reduce to uniformity the divergent local practices, especially in matters of punishment and sanitation. I do not say that a considerable measure of success has not been secured. On the contrary, as much has been done perhaps as the nature of the case allowed. But the success attained in securing uniformity was insufficient, and at last, in 1888, the fourth Jail Commission, of which our hon'ble colleague Dr. Lethbridge was a member, was appointed by Lord Dufferin's Government to enquire into facts upon the spot and furnish the Governor General in Council, not merely with opinions, in which the Commissions of 1864 and 1877 had perhaps too largely dealt, but with an exhaustive statement of concrete examples illustrative of the defects to be found in the working of the existing systems. The object and scope of this, the last Jail Commission's, mandate will be perceived by the Council from the following passage which I quote from the Resolution appointing the Commission :—

'The administration of jails with respect to economy, sanitation and discipline has for many years received the careful attention of the Governor General in Council. Three Commissions (in 1836, 1864 and 1877) have, under the orders of the Government of India, considered and reported on the general principles which ought to be observed in the management of Indian jails. There is on the part of the Governor General in Council no wish to reconsider the principles so laid down, but an examination of the statistics of jails in different Provinces, and even of prisons in the same Province, shows that great diversity of practice exists in carrying the principles into effect. The Governor General in Council is not to be understood as advocating absolute uniformity of administration in all Provinces in connection with jail administration. He admits that local circumstances must always give rise to diversities of practice. But an examination of the provincial reports for some years satisfied him that the divergencies in regard to the cost of maintaining prisoners, in regard to their sanitary condition and in regard to discipline points to the existence of defects which it is desirable to remove. There being no longer any doubt regarding principle, and the question being one of practice, it appears to His Excellency in Council that improvement can best be effected by means of a careful and thorough examination of experts on the spot into the causes which operate in certain Provinces and certain jails to produce a variation, for example, in the death-rate ranging from 11 to 72 per mille of the average strength, a variation in the cost of maintenance of prisoners per head ranging from Rs. 44-11-7 to Rs. 91-2-10, and a variation in the ratios per cent. of punishment for offences against jail discipline ranging from 33 to 328.'

"Acting under these instructions the Jail Commission of 1888 visited the various Provinces and made a most exhaustive enquiry into all matters connected with jail administration, bringing out in great detail the points in which the practice of one Province differs from that of another. Their report has satisfied the Government of India—and this was also the opinion of the Commissioners

themselves—that great divergencies exist where it is essential that uniformity should prevail, and that this uniformity cannot be secured without legislation and the enactment of a single Prisons Act for the whole Empire. In this view nearly all Local Governments have now concurred, and this concurrence is, I think, in itself a strong proof of the correctness of the conclusions at which your Excellency's Government had arrived. An amended and consolidated Prisons Bill for British India has, therefore, been prepared on the basis of the Commission's report, after a special and further examination of their recommendations in regard to jail offences and punishments by a Conference of experts on jail management from all Provinces, which was convened for the purpose in 1892. The Bill was then circulated to all Local Governments for consideration, and it has since been modified and amended in accordance with their criticisms. It is this Bill so modified and corrected that I have now the honour to ask for leave to introduce, and I trust that the Council is satisfied that all the care and deliberation which its great importance requires have been bestowed upon the preparatory and initial stages of the measure.

"My Lord, I wish now to say a few words on the Bill itself, which will be, I hope, in the hands of Hon'ble Members before the end of this week. In constructing the Bill the model of the existing law has been closely followed; indeed, the Bill retains the same classification of subjects, and the same division into twelve chapters, as the Council will find in Act XXVI of 1870. The first chapter deals with definitions, and the Council will find that the definitions of the existing law have been considerably expanded with a view to meeting difficulties and solving doubts which have arisen in actual practice; but the only point in the chapter which I wish to mention now is the distinction drawn between a 'prison' and a 'subsidiary jail.' This distinction has been drawn with the object of enabling Local Governments to exempt from some of the more strict disciplinary provisions of the Bill those houses of detention which are situated not at the head-quarters of districts but at subdivisions and out-stations in which civil and unconvicted prisoners are detained pending trial, or in which persons convicted of trivial offences, and sentenced to not more than a month's imprisonment, are secluded. The distinction has been drawn in accordance with the following recommendation of the Jail Conference of 1892:—

'We did not consider it desirable that the power of punishment conveyed by the Act should in all cases be bestowed on the Superintendents of subsidiary jails and of those of subordinate jails (especially of the lower class) in Bombay. These jails are often under the

supervision of officers on very low pay and of limited experience, and we did not think it right to invest them with the same plenary powers of punishment as an officer in charge of a central jail may possess. We therefore propose to limit the original application of the Act to central, district and (in Bengal) intermediate jails, while empowering the Local Governments by rule to invest any or all officers in charge of subsidiary or subordinate jails with any or all of the powers of punishment conferred by the Act.'

"The distinction then is dictated by humane and prudential motives, and will, I hope, meet with the approval of the Council.

"The next nine chapters follow generally the existing law with such amplifications as experience has shewn to be necessary. They do not seem to me to raise any question of new principle on which it is necessary to remark at this stage. In many instances the additions or modifications are only on points of drafting.

"The most important changes in the law are embodied in Chapter XI. It is around these provisions that I expect discussion is most likely to arise, and I shall be pardoned if I dwell upon them for a few moments. Hitherto the tendency of opinion has been to relegate the definition of jail offences and the punishment they involve to rules made by the Executive Government in accordance with the Jail Act. There is much to be said for this way of dealing with the matter, and it will not, I believe, be possible to abandon it altogether. Remember that every breach of a jail regulation is a jail offence, and that it is impossible to foresee all the regulations which have to be observed in jails, and inexpedient to make legislation necessary for the purpose of adding to or modifying such regulations, which doubtless will change with time and place. Still it has been thought better to go as far as possible in the direction of limiting local discretion to create jail offences and of including in the law itself, at all events, the more important and serious of these offences. On this point then the Bill proposes to enlarge the Act of 1870 in one direction and to restrict its operation in another. We enlarge it by increasing the number of jail offences specifically mentioned in the law; and we restrict it by providing that, before disobedience of any jail regulation becomes punishable, the regulation shall have been sanctioned by the Governor General in Council. The regulations, involving penal consequences, will thus be as uniform for all Provinces as the law itself.

"That, my Lord, is the way the Bill deals with the definition of offences against jail discipline: it remains for me to say a word on the connected question of punishments. Hitherto there have been in use in jails, besides the

punishment prescribed by law, other forms of punishment, consisting in the modification, to the disadvantage of the prisoner, of matters of discipline, or treatment left to the discretion of the jail authorities, such as loss of good-conduct marks, relegation to a disagreeable form of labour, modification in diet privileges, and so forth. The Government of India think it desirable, in order to prevent the introduction of objectionable forms of punishment and to secure the due record of all punishments of whatever nature, to specify exhaustively in the law all punishments which may be employed. The effect will be to restrict the discretion and to define the authority of prison officers in regard to punishments in all Provinces, and thereby to produce uniformity in prison discipline.

"I shall not detain the Council with an examination of the various descriptions of punishment provided in the Bill. They have been devised with the object of increasing the irksomeness of prison life for unruly prisoners, while avoiding recourse to corporal punishment or reduction of diet, which the Government of India regard as extreme measures not to be ordinarily employed. But there is one punishment recognized in the Bill—the use of irons—which I do not wish to pass by without a word of explanation. At present it is only in the Lower Provinces of Bengal that jail authorities can impose irons as a punishment for breach of prison discipline. In all other Provinces the order of a Magistrate is necessary. The Government of India is of opinion that the Bengal system on this point is the preferable one. While there are strong objections to the unnecessary use of irons for purposes of safe custody—to fettering all prisoners as a safeguard against their escaping—the use of irons seems to the Government of India to be a suitable and humane kind of punishment for a large number of jail offences. The Government of India, as I have intimated, discourage, from motives of humanity, the frequent employment of corporal punishment in jails; and the objections to the frequent use of penal diet are obvious from a sanitary point of view. If recourse to these severe forms of punishment in ordinary cases of recusance is to be effectively discountenanced, it is all the more necessary to invest jail authorities with adequate means of coercion for the control of unruly and hardened criminals. It is to be remembered that the fetters and handcuffs to be used in Indian jails are not the manacles which melo-dramatic novelists depict or over-wrought philanthropists imagine—just as the solitary cells for which the Bill renews provision are not exactly reproductions of Venetian *oubliettes* or the dungeon of Bonnivard. The fetters to be used in our jails will be as to weight and form prescribed by rule made by the Governor General in Council; and their use will be made no

more irksome than is necessary to deter from misconduct, and to obviate the employment of severer forms of punishment.

"In conclusion, I may add that the Bill in its last chapter confers a power on the Government of India to make rules for the management of jails on matters which cannot conveniently be dealt with by the law itself, and that a similar power is conferred on Local Governments in matters regarding which there is no important end to be gained by insisting on uniformity of procedure in all Provinces.

"Other provisions of the Bill deal with the matter of labour and of solitary confinement, but they raise no questions of principle which need be brought to notice on this occasion, and I therefore, my Lord, beg now to move that leave be given me to introduce the Bill."

The Motion was put and agreed to.

The Hon'ble SIR ANTONY MACDONNELL also introduced the Bill.

The Hon'ble SIR ANTONY MACDONNELL also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

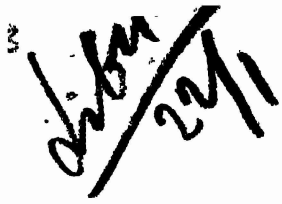
The Motion was put and agreed to.

REPEALING AND AMENDING BILL (BOMBAY).

The Hon'ble SIR ALEXANDER MILLER moved for leave to introduce a Bill to repeal certain obsolete enactments and to amend certain other enactments. He said:—

"The Bill is one of those which are commonly now known as a Repealing and Amending Bill, and deals only with certain obsolete matter affecting the Presidency of Bombay. It is now proposed to introduce it because the new edition of the Bombay Code is in preparation and it is thought necessary to get rid of this obsolete matter before printing it. The Bill is approved by the Government of Bombay and is a purely formal one, so I do not think it necessary to trouble the Council further about it."

The Motion was put and agreed to.



The Hon'ble SIR ALEXANDER MILLER also introduced the Bill.

The Hon'ble SIR ALEXANDER MILLER also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English and in the Bombay Government Gazette in English and in such other languages as the Local Government thinks fit.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 25th January 1894.

J. M. MACPHERSON,

CALCUTTA; *Deputy Secretary to the Government of India,*
The 19th January 1894. *Legislative Department.*

Government of India Central Printing Office.—No. 307 L, D.—19-1-94.—316.—E. H

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Council Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Government House on Thursday, the 25th January, 1894.

PRESENT:

His Excellency the Viceroy and Governor General of India, G.C.M.G., G.M.S.I., G.M.I.E., *presiding.*
His Honour the Lieutenant-Governor of Bengal, K.C.S.I.
His Excellency the Commander-in-Chief, K.C.B., G.C.I.E., V.C.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble J. Westland, C.S.I.
The Hon'ble Sir A. P. MacDonnell, K.C.S.I.
The Hon'ble Dr. Rashbehary Ghose.
The Hon'ble Fazulbhai Vishram.
The Hon'ble C. C. Stevens.
The Hon'ble J. Buckingham, C.I.E.
The Hon'ble A. S. Lethbridge, M.D., C.S.I.
The Hon'ble Gangadhar Rao Madhav Chitnavis.
The Hon'ble H. F. Clogstoun, C.S.I.
The Hon'ble W. Lee-Warner, C.S.I.
The Hon'ble P. Playfair.
The Hon'ble Mahárájá Partab Narayan Singh of Ajudhiá.

NEW MEMBER.

The Hon'ble MAHÁRÁJÁ PARTAB NARAYAN SINGH of Ajudhiá took his seat as an Additional Member of Council.

QUESTIONS AND ANSWERS.

The Hon'ble MR. BUCKINGHAM asked:—

Whether the Government of India will give some inducement to officers of the Covenanted Civil Service to remain permanently in Assam, either by giving an Assam allowance or else by equalising their pay with that of officers of equal standing in Bengal.

The Honb'le SIR ANTONY MACDONNELL replied:—

"The best method of recruiting the Assam Commission has on several occasions come under the consideration of the Government of India. They will again consider it in communication with the Chief Commissioner. But they are not at present prepared to admit that either of the expedients suggested in the question, or any other of a similar character, is called for by the circumstances of the case."

The Hon'ble DR. RASHBEHARY GHOSE asked:—

(*a*) Whether the attention of the Government of India has been drawn to the case of *Empress* v. *Sagal Semba Sajow, Chowba Singh Duffadar, Nasipa Ningthamba, Madan Hijapa, Chanbangbang Sajow, Amu Filem and Sarba Singh* (known as the Balladhan Murder Case), which came before the High Court of Calcutta on appeal and also on reference, and in which all the prisoners were acquitted by Prinsep and Amir Ali, J.J.

(*b*) Whether, as suggested by the Hon'ble Judges, any inquiry has been made into the charges of misconduct preferred in the course of the trial against Khedam Singh and one Gossain, who were apparently employed by the Inspector, Bhoirub Chunder Dutt, during the police investigation, and one of whom, namely, Khedam Singh, was also employed as an interpreter to the Magistrates, Mr. Howell and Mr. Lees.

(*c*) Whether, as suggested by the Hon'ble Judges, any notice has been taken by the Local Government of the facts mentioned in their judgment, relative to the proceedings in the case of the police, the several Magistrates concerned, and the Sessions Judge, which have called forth a strong expression of opinion from the Hon'ble Judges.

(*d*) Whether, having regard to the numerous and serious irregularities in the course of the proceedings before and during the trial of the case, the Government of India do not deem it expedient, in the interests of justice and good Government, to take measures for preventing a recurrence of such irregularities, and, as a step in that direction, to see that inexperienced officers may not be appointed to positions and invested with powers involving grave responsibilities.

(*e*) Whether a money reward was offered for the detection of the offenders in the case; whether any police officer or officers have been allowed to participate in it; and, if any police officer or officers have been so allowed, whether Government do not regard such participation on the part of the police as extremely undesirable.

The Hon'ble SIR ANTONY MACDONNELL replied:—

"In answer to clause (*a*) of the Hon'ble Member's question I have to state that the Government of India have noticed the report of the case in the newspapers, and have perused the judgment of the Hon'ble Judges as published therein, but their attention has not been officially drawn to the case. The remarks of the Court, made in the course of the judgment, on the conduct of the officers concerned, were intended for the information of the Chief Commissioner of Assam, from whom the Hon'ble Judges thought they would no doubt receive proper notice.

"Clauses (*b*) and (*c*) were referred to the Chief Commissioner of Assam, who reports that some time ago he called upon the District Magistrate of Cachar, who committed the accused, to submit any explanation he might have to offer on the subject of the irregularities committed by the police and himself in the course of the police investigation into the case, and also in the course of the proceedings before himself after the police had sent up the case for trial and prior to committal.

"In regard to the trial proceedings before the Sessions Judge, the Chief Commissioner has sent for the trial record, and also called upon the Officiating Sessions Judge who tried the case to submit any explanation he may desire to offer on the remarks of the High Court so far as they referred to the proceedings at the sessions trial. On receipt of the explanations of the District Magistrate and Officiating Sessions Judge the Chief Commissioner will pass such orders as he considers to be called for.

"When the Chief Commissioner has seen the trial record, which he has not yet received, he will determine what action should be taken on the suggestion of the Hon'ble Judges that certain serious charges brought against the persons named Khedam Singh and Gossain in the course of the sessions trial should be enquired into. At present the Chief Commissioner has no information as to the nature of those charges.

"In answer to clause (*d*), I have to say that the officer who committed the case to the sessions was of ten years' service, and not inexperienced. The Judge who tried the case had less experience, being of seven years' service; and his temporary employment during the absence on three months' privilege leave of the experienced permanent Judge was in part due to the fact that the European element in the Civil Service of Lower Bengal has for some years past been kept at a minimum.

[*Sir Antony MacDonnell; Sir Alexander Miller;* *Mr. Westland.*] [25TH JANUARY, 1894.]

"The Government of India will consider, in communication with the Chief Commissioner, in what manner it is possible to obviate the employment of junior and inexperienced officers in positions of difficulty and responsibility.

"In answer to clause (*e*), the Chief Commissioner reports that no police-officer has participated in the rewards offered in connection with this case."

LAND ACQUISITION ACT, 1870, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER presented the Report of the Select Committee on the Bill to amend the Land Acquisition Act, 1870. He said:—"It may be convenient to Hon'ble Members that I should state that I propose to ask the Council to take the Report into consideration this day week."

INDIAN PORTS ACT, 1889, AMENDMENT BILL.

The Hon'ble MR. WESTLAND moved that the Bill to amend the Indian Ports Act, 1889, be referred to a Select Committee consisting of the Hon'ble Sir Alexander Miller, the Hon'ble Mr. Stevens, the Hon'ble Mr. Clogstoun, the Hon'ble Mr. Playfair and the Mover. He said:—

"I trust that Your Excellency will permit me to make a short statement of the facts in connection with this Bill, because it is one that concerns in a small degree the trade of Calcutta; and it was introduced during the Simla session, in order that it might go through the preliminary formal stages before the Council met at Calcutta. The Bill, although it has a formidable title, really affects only the Balasore ports. There are several ports on the coast of Orissa, and they are, for the purpose of the application of the Indian Ports Act, divided into two groups—one being the ports of Cuttack, and the other those of Balasore of which the best known is Chandbali. These Balasore ports have been maintained for some time at a considerable loss to Government. It was in 1889 that the Government of India, perceiving from one of its periodical returns that a considerable loss accrued to Government in the management of these ports, which had to be met by a grant from general revenues, called the attention of the Government of Bengal to the circumstance, and asked them to consider whether it might be possible to increase the revenues from the ports so as to cover the expenditure upon them. The Gov-

ernment of Bengal, looking probably at the nascent condition of the trade of the ports, was not very urgent in the matter, and preferred for a time to continue its grants. The matter did not come up again till the end of 1890, when the Government of Bengal reported that the only means of making the Balasore ports capable of meeting their expenditure would be to levy a toll of two annas upon each passenger passing through the ports. The Government of India, agreeing with the Government of Bengal, decided that such a measure would be a great encumbrance to the traffic, but they considered it desirable to adopt two measures to increase the existing rate of port-dues. The first was to raise the rate of dues up to the maximum which the Act permitted; they had formerly been taken at two annas in some of the ports and in others at three annas; it was now proposed to levy them at the full rate of four annas. This measure was covered by the old Act, and it was brought into effect from May 1st, 1893. The other measure required an amendment of the Act. It was to enable these dues to be levied upon steamers visiting the port, not once in sixty days, but once in thirty days. This is the amendment which is now before the Council.

"It may be convenient to the Council if I explain, by a short reference to the figures, what the actual deficit of the finances of these ports consists of. It is a deficit which I may say will not be nearly covered by the proposition to amend the law now made before the Council. Before the measure was adopted of which I have just spoken, the revenues of the ports of Balasore were only Rs. 2,500. From the 1st of May last the raising of the duties to four annas will bring in an additional Rs. 800; so that, without this amendment of the law, the revenues of the ports would be Rs. 3,300. Now, I shall set against this the necessary expenditure on the ports. In the first place, we have a Port-officer, who at present draws a salary of Rs. 4,200 a year. That salary may be adequate, but I do not think it can be called extravagant for the duties imposed by law upon the Port-officer; so that, in the first place, it is obvious that the Port-officer's pay alone takes much more than the whole revenue of the ports. Then we have to provide him with a boat, which costs Rs. 1,300 a year. There is then in addition to this a flagstaff, with signals, including lights at night, at Chandipur, which costs Rs. 300. Then there is a lighthouse on Short's Island, which is maintained chiefly for these ports, for which the annual establishment amounts to Rs. 3,400. These figures alone mount up to Rs. 9,200. Besides this, there is the maintenance of buildings, dockyard services, and petty expenses, and, taking all these together, I do not think it is possible to

carry on the management of the ports under a cost of Rs. 10,000. I ought also to mention that the Short's Island lighthouse was built a short time ago at a cost of a lakh of rupees, and in respect to that capital expenditure not a single rupee is charged against the port funds. We have therefore at the very least a compulsory expenditure of Rs. 10,000, to meet which we have a revenue which amounts only to Rs. 3,300.

"The proposal which is now being made to amend the Act will enable us to levy further dues to the extent of Rs. 1,600, so that we will get in all Rs. 4,900, or less than half this compulsory expenditure.

"The proposals which were made in the Bill were referred to the Government of Bengal and through that Government to the commercial bodies in Calcutta, and we have received two letters which will be laid before the Select Committee. The first of these came from the Chamber of Commerce. The Chamber of Commerce offered the suggestion that in order to cover the deficit of the Balasore ports it might be desirable to combine with them the Cuttack ports. Unfortunately this proposal offers no solution of the difficulty, for, although in the Cuttack ports we have at present an excess revenue of Rs. 3,000, it is obvious that even with this excess it will not be possible to meet the deficit in the Balasore ports. It is possible under the existing law for the Lieutenant-Governor to combine the ports of Cuttack and Balasore into one group so as to apply the excess revenue of the one set to meet the excess expenditure of the other; but whether it is expedient to do so will depend upon several considerations. If the trades of the two sets of ports are practically independent, it would not be right to tax one trade in order to support the other. The suggestion, however, is one that can be considered independently by the Government of Bengal, but, even if carried into effect, the present difficulty will not be met.

"The other criticism came from the managing agents of the two navigation companies which administer the steamers trading with the Balasore ports. They strongly protested against the measure, and urged that the deficiency should be met by reducing the port establishment. But I think that the figures I have given will shew that a reduction of the establishment within the limits of the revenue is an impossibility. The agents, I may mention, are under a misapprehension in one point, for they appear to think that sailing craft pay nothing towards the port. As a matter of fact, of the present port-dues one-third comes from sailing vessels and two-thirds from steamers. I admit that the present proposal to amend the law practically applies to steamers only,

because it is this class of vessel alone which makes periodical passages to these ports. But, even if the amendment comes into operation, the steamers visiting the ports will be able to make four or five visits on the payment of one fee; and, as I have pointed out, the ports are in such an extreme state of deficit that it is only reasonable to call upon the trade to pay a larger proportion of dues, in order to meet the expenditure, and, even at the best, about half the expenditure will, until the trade of the ports greatly improves, have to be met by grants from general revenues.

"The details of the figures will be laid before the Select Committee and submitted to their judgment, and the matter will, I hope, come again before the Council for final disposal in a very short period."

The Motion was put and agreed to.

CODE OF CRIMINAL PROCEDURE, 1882, AND INDIAN PENAL CODE AMENDMENT BILL.

The Hon'ble DR. LETHBRIDGE moved that the Bill to amend the Code of Criminal Procedure, 1882, and the Indian Penal Code be referred to a Select Committee consisting of the Hon'ble Sir Alexander Miller, the Hon'ble Sir Charles Pritchard, the Hon'ble Sir Antony MacDonnell, the Hon'ble Dr. Rashbehary Ghose, the Hon'ble Sir Griffith Evans, the Hon'ble Fazulbhai Vishram, the Hon'ble Gangadhar Rao Madhav Chitnavis and the Mover.

The Motion was put and agreed to.

PRISONS BILL.

The Hon'ble SIR ANTONY MACDONNELL moved that the Bill to amend the law relating to Prisons be referred to a Select Committee consisting of the Hon'ble Sir Alexander Miller, the Hon'ble Dr. Rashbehary Ghose, the Hon'ble Fazulbhai Vishram, the Hon'ble Dr. Lethbridge, the Hon'ble Gangadhar Rao Madhav Chitnavis, the Hon'ble Mr. Clogstoun, the Hon'ble Mr. Lee-Warner and the Mover, with instructions to report after one month.

The Motion was put and agreed to.

[*The President.*] [25TH JANUARY, 1894.]

His Excellency THE PRESIDENT said :—

"It is proposed that the Council should meet again this day week. When that time comes, I shall no longer have the right of presiding over your deliberations. This chair will be filled by my successor, sitting face to face with the portrait of his illustrious father, the inheritor of a distinguished name, to which there is every reason to believe that he will add yet further distinction. I cannot allow the Hon'ble Members of this Council to separate to-day without expressing to them my thanks for the personal consideration with which they have always treated me both in and out of this room; and I say this, not only with reference to those who are here to-day, some of whom are taking part in our proceedings for the first time, but with reference to all those gentlemen who, during the last five years, have had a seat in the Legislative Council.

"I part from the Council with feelings of great regret, and of sincere respect and regard for its members. I earnestly trust that this Council, strengthened as it has lately been by the extension of its functions, and by the addition to its ranks of a larger number of representative members, some of whom will owe their presence to the recommendation of their fellow-citizens, will enjoy an ever-increasing share of public confidence, that it will conduct its deliberations with wisdom, dignity and moderation, and that it will prove to be a new source of stability and usefulness to the institutions of this country. I feel sure that Lord Elgin will receive from the Members of this Council the same assistance and the same courtesy which the Council has never failed to extend to me.

"Gentlemen, I bid you farewell."

The Council adjourned to Thursday, the 1st February, 1894.

S. HARVEY JAMES,
Secretary to the Government of India,
Legislative Department.

CALCUTTA ;
The 1st February, 1894.

Government of India Central Printing Office.—No. 36c L. D.—2-2-94.—320.—J. N. D.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Council Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Government House on Thursday, the 1st February, 1894.

PRESENT:

His Excellency the Viceroy and Governor General of India, P.C., LL.D., G.M.S.I., G.M.I.E., *presiding.*
His Honour the Lieutenant-Governor of Bengal, K.C.S.I.
His Excellency the Commander-in-Chief, K.C.B., G.C.I.E., V.C.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble J. Westland, C.S.I.
The Hon'ble Sir A. P. MacDonnell, K.C.S.I.
The Hon'ble Dr. Rashbehary Ghose.
The Hon'ble Sir G. H. P. Evans, K.C.I.E.
The Hon'ble Fazulbhai Vishram.
The Hon'ble C. C. Stevens.
The Hon'ble J. Buckingham, C.I.E.
The Hon'ble A. S. Lethbridge, M.D., C.S.I.
The Hon'ble Gangadhar Rao Madhav Chitnavis.
The Hon'ble H. F. Clogstoun, C.S.I.
The Hon'ble W. Lee-Warner, C.S.I.
The Hon'ble P. Playfair.
The Hon'ble Mahárájá Partab Narayan Singh of Ajudhiá.

Before the list of business was proceeded with, His Excellency THE PRESIDENT made the following remarks :—

"I understand that it is not the custom of the Council for anything to be said outside the regular course of business, but I cannot take my seat here for the first time without, on my own behalf, asking from you that indulgence which my predecessor bespoke for me last week in words which merit my warmest acknowledgment. I feel conscious that for some time I shall

[*The President; Gangadhar Rao Madhav Chitnavis; Sir Antony MacDonnell; Sir Alexander Miller.*] [1ST FEBRUARY, 1894.]

have to make many calls on your forbearance, and I should like you to remember that, if that is so, it will not be for want of any effort on my part to so manage the affairs of the Council that they may be transacted with all regularity and order and with a due regard to the despatch of business."

QUESTION AND ANSWER.

The Hon'ble GANGADHAR RAO MADHAV CHITNAVIS asked:—

Will the Government, in view of the backward state of the Central Provinces, be pleased to draw the attention of the Local Government to the small percentage of its income that is spent on colleges, and point out to it the advisability of giving increased aid to the local colleges to enable them to improve and strengthen the professoriate and extend their sphere of usefulness?

The Hon'ble SIR ANTONY MACDONNELL replied:—

"The Government of India will forward the Hon'ble Member's question to the Chief Commissioner, Central Provinces, for such remarks as he may wish to offer; and on receipt of them will consider whether any orders are called for in the direction indicated by the latter part of the Hon'ble Member's question."

LAND ACQUISITION ACT, 1870, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER moved that the Reports of the Select Committee on the Bill to amend the Land Acquisition Act, 1870, be taken into consideration. He said:—

"It will be in the knowledge of Hon'ble Members present—or at least of some of those present—that the question of amending the Land Acquisition Act is one which has been before the Government of India for something over three years. Speaking generally, there were three points on which the law as it stands was considered to be specially unsatisfactory—one, that in the absence of any single claimant the Collector is unable to proceed to make an award, and is obliged, utterly irrespective of whether there is any disputed question to determine or not, to refer the matter to the Court; and I have been told on more than one occasion by experienced District Judges that they had found it necessary to break the law in order to avoid the great hardship of compelling persons, whose rights were of very small value, to appear at an expense out of all propor-

tion to their interest, or, in the alternative, of inflicting serious loss upon all the others.

"It was also objected—and it was found to be a serious objection—that the principle of assessors, which in the first instance might be supposed to be a most reasonable one when you were determining what the value of land should be, worked extremely badly; that the assessors on both sides, instead of being judges of value, were simply partisans; and that, instead of assisting the Judge in coming to a right conclusion, they were merely an expensive machinery of the Court.

"The other point, and one which was urged with a good deal of force, I think, from Bombay, was that under the Act as it stands there is no provision for anything except making a money payment to the persons whose land is taken, and that there are many cases in which it would be more beneficial for the public taking the land and for the parties whose land is being taken that they should get other land in the place of it; and it was thought desirable to introduce a power, particularly in regard to such cases as temples and other places of worship, to substitute for the land taken other land, instead of handing over a sum of money which was neither so fitting a compensation nor so securely devoted to the purposes of the trust.

"Those were, I think, the three main points on which discussion took place, and after very lengthy discussion and frequent noting a Bill was introduced two years ago, of which the general principle was to enable the Collector to make an award on such materials as were properly before him in the first instance, whether the parties appeared or not, leaving any party who objected to the award to challenge it by an ordinary civil suit. When that was circulated for opinion a great many objections were taken to the procedure by civil suit, and accordingly when the Bill was in Select Committee last year the Hon'ble Mr. Woodburn, in whose charge it then was, proposed to substitute this principle, that the Collector might proceed to make the award unless any one of the claimants objected, but that, if any one of the claimants objected, the matter should be referred to the Court. That was accepted by the Committee, has, I think, met with general acceptance since, and is the basis of the Bill now before the Council. It only came out from Committee about a fortnight before the end of the last Calcutta session, and when it was proposed then to take it into consideration it was objected, on behalf of the Chamber of Commerce, that the Bill had been considerably altered in its

course through the Committee, and that it was desirable that there should be more time to consider what the effect of the changes was; and on that account it was postponed until this present session instead of being passed, as it otherwise would have been in the ordinary course, at the end of the last session here. Since then it has been, as the Council is aware, referred back to the Committee in consequence of some papers of some importance which were received quite lately.

"The Committee have gone through the Bill again; the changes now made in the Bill as amended by the Select Committee last year are not very numerous, and I think they will all be found to be in the direction of improvement. The Committee have endeavoured, as far as it possibly could, to give effect to all the serious objections which had been taken to the Bill as it stood, and, although there are a number of amendments of more or less importance of which notice has been given for this meeting, I hope that the Bill will be passed through the Council substantially as it has come from the Committee."

The Motion was put and agreed to.

The Hon'ble MR. LEE-WARNER moved that in section 3 of the Bill, as amended, for clause (*f*) the following be substituted, namely:—

> "(*f*) the expression 'public purpose' includes the provision of village-sites in cases where the Local Government shall declare by notification in the official Gazette that it is necessary to make such provision: and".

He said:—"I shall endeavour to support the amendment which stands in my name by as brief an explanation as possible. We have here a Bill which would enable the Local Government, as trustee for public interests, to acquire private property in a village for a public purpose—say a village school or dispensary—provided that it was able to declare that the object was public, and gave proof of the public need by contributing funds towards the compensation paid to the lawful owner for his compulsory dispossession. But suppose the village-community needed something far more important to every single member of it than a school or a dispensary, namely, a new village-site. Take the practical case put by the Government of Bombay in January, 1885: 'It has been found necessary in Khandesh to move a village from a dangerous position on the bank of river to a safer locality, but the only land suitable cannot be obtained without recourse to the Act,'—then no relief can be given to the anxious householders, whose women and children are nightly racked with the fear of a watery death, unless Government can certify that in the particular district it is

customary for the Government to make such provision. I presume that, when the Legislature imposes a condition, a special obligation devolves on the executive to interpret that condition strictly. It might happen that custom could not easily be proved in the district. In the first place, the existing Act precludes the establishment of any custom, since the Bombay Government inform us that they are advised that the law as it stands does not admit of relief. Again, it might be that the contingency had never before arisen. This might be specially the case where new irrigation works have filled a river bed, as I recollect was the case in some land I acquired for Government on the banks of the Nira River in the Poona District, and altered the conditions of the riparian village-sites. Or, again, a new district may have been added to the empire, and no occasion yet arisen for providing an addition to a village-site described by the Deputy Commissioner of Bassein as bounded as follows:—'In front a river, at one end a kyaung, at the other a graveyard, and paddy fields behind. As the population grows the village becomes more and more crowded, and the surroundings more and more insanitary, especially in the case of erosion, since the only direction for expansion is behind.' But I need not weary the Council with the difficulties which might arise in practice in the way of a conscientious declaration as to custom.

"I proceed to consider the objections to the grant of the powers which the Government of Bombay, Sir Dennis Fitzpatrick and the Chief Commissioner of Burma have recommended. They refer, I understand, to the general principle of the policy of limiting the power of the executive to interfere with private property, and to the consideration that the sacred rights of property would be invaded, in the case put, for the benefit of a small community. As to the first, whilst admitting that compulsory acquisition should be limited, I submit that in regard to village-sites the very nature of the case secures exceptionally strong and self-acting restrictions which would protect the grant of the power sought from abuse. In the first place, Government will have to find the money for the acquisition, and a strong conviction of the necessity for it is ensured by that obligation. In the next place, the expense of the exodus will fall upon the villagers, who not without the gravest necessity will uproot their temple, forsake their houses, and move away from associations most sacred to them. When they have incurred this expense, they will probably require a new village-chavdi or village-hall to which they will have to contribute, and one way or another it is certain that the change of a village-site will never take place without much hardship and regret. I submit then that there is no

justification for apprehending that the powers, if granted, will be abused. With the other argument I may be briefer. To the simple village folk, who never leave their village except for the day's toil or for the occasional visit to the market town, the highest conception of public purpose which can occur to their minds must be the village-site. Whose interests are to be set against the paramount necessity for change or extension where the very safety of the people and their permanent sanitary welfare are concerned? One of themselves at the best, and more probably an absentee money-lender, who has acquired a property in the village, will be required to receive full value for the surrender of his field. If after the passing of this Act I were to find myself in a Dekkhan village, with the whole community begging me to obtain from Government a new site for them when their own village was falling into the river, I do not know what arguments I could find to justify to their common sense a refusal to take up land for a new village-site. I trust that the Council will save me from ever being placed in such a dilemma, and the Local Governments from the trouble and possible risk of searching for proof of custom.

"In conclusion, I beg to explain that I was unable to press this amendment on the Select Committee, since I joined it after the section had been disposed of. Moreover, the Committee gave such patient attention and large support to other amendments proposed by me that, when I was informed that the section had been drafted as it stands after full consideration and not without a division of opinion, I felt that the time for appeal to the Select Committee was passed, and that it was my duty to submit my amendment to Your Excellency's Council."

The Hon'ble SIR ALEXANDER MILLER said:—"On this point I can really only speak personally for myself. It was not one of the points before the Government of India at the time when the Bill was prepared; in fact, I do not think it had ever been thought of then, but when it came before the first Select Committee it certainly was considered at very great length by that Committee and argued very minutely; and the provision which you now find in the Bill was accepted by that Committee as a fair compromise, and as enabling the provision of village-sites, in the only case in which, in the opinion of the Select Committee, it was fair to provide them; that is to say, it was shown that there were cases in which the Government were in the habit of providing the sites and in which, in fact, the people looked to the Government to provide sites when necessary, and the Committee said that it was reasonable that the Government should in those cases have the power to provide sites compulsorily if

they thought fit. The Committee were strongly of opinion that, ordinarily speaking, it is a man's own business to find his own house, and not to take his neighbour's land for the purpose unless his neighbour is willing to sell it. Accordingly the Committee distinctly refused permission to insert the words 'village-sites,' without qualification: the question was raised again before the second Select Committee; it was not discussed at the same length, but Mr. Lee-Warner did raise it; and the Committee, by a majority, I think, of four to one, came to the conclusion that the provision as it stands in the Bill went as far as it was reasonable to go in the direction of taking the land of one man compulsorily for the benefit of another for what cannot possibly be called a public purpose: and, therefore, speaking entirely for myself and in consequence of what has passed in the Select Committees, I must ask the Council to adhere to the words as they stand in clause (*f*). I may add that I offered personally to support the amendment provided that words were introduced which threw the whole expense of working the provision upon the Government, for the purpose of preventing Government from merely being used as a hand by which the villagers or any of them might manage to get possession of a site which they liked better than their own at the expense of some other individual. Mr. Lee-Warner thought that that would not go far enough to meet his purpose, and therefore that proposal may be treated as non-existent."

The Hon'ble MR. CLOGSTOUN said:—"I beg to second Mr. Lee-Warner's amendment. The question so far has been discussed as relating to rights in which only a few villagers are concerned, but in the Madras Presidency the question has arisen as to how to provide house-sites for the *Pariahs*, who form a very large proportion of the population of Madras. They represent some 6 millions out of a population of 36 millions. The difficulty of providing houses for *Pariahs* in certain districts came up before the Government the other day, and the Government decided that, if necessary, they would take steps to acquire sites for these *Pariahs* under the Land Acquisition Act. The section as it stands now in the Bill would in most districts in the Madras Presidency give the Local Government power to provide village-sites for *Pariahs*, because in the Madras Presidency in most districts it is the practice of the Government to provide village-sites; but the needs of the *Pariahs*, or of any other similar large section of the population, may be equally great in other presidencies as in Madras, and where the Government is not in the habit of providing village-sites the section as it has been drawn would preclude them from doing so in any such places. I think all Governments ought to have the power to give these sites. Most districts in Madras are under the raiyatwari system, and in

these districts, therefore, the Government would have the power, without this section, to give sites because the waste-land is all their own and there is generally a sufficiently large amount of waste-land from which to give the sites. But there are other districts almost entirely under the zamindari system, and the section as it stands would preclude the Government from granting sites in such districts. For these reasons I am prepared to support Mr. Lee-Warner's amendment."

The Hon'ble DR. RASHBEHARY GHOSE said :—"As one of the members of the Select Committee I am bound to say, as my learned and hon'ble friend Sir Alexander Miller has already pointed out, that the amendment proposed by the Hon'ble Mr. Lee-Warner was solemnly discussed in Committee, and we came to the conclusion, after thorough discussion, that the power of the Local Government to acquire land for village-sites should be limited only to those cases in which it has been usual or customary for the Local Government to provide such sites. In Bengal, the province with which I am most familiar, it is by no means an unusual occurrence for villagers to be obliged, owing to the action of the rivers, to change their village-sites; but the Bengal Government has never asked for any power of the kind proposed by the Hon'ble Mr. Lee-Warner, and I am not aware that any difficulty has been practically experienced by the villagers in acquiring land at a fair price for village-sites when the old sites have been washed away. I regret, therefore, that I cannot accept the amendment proposed by the Hon'ble Member."

The Hon'ble SIR ANTONY MACDONNELL said :—"I would only desire to say, with reference to the remarks which have fallen from my hon'ble friend Dr. Rashbehary Ghose, that the thorough discussion to which he refers occurred in the first Select Committee and before I had the honour of being a member of the Committee. I merely make this remark with the view of explaining that I now claim the liberty to vote upon the question."

The Hon'ble MR. WESTLAND said :—"I wish to submit to the Council a brief remark on this subject, namely, that to lay upon the Government the duty of providing village-sites in places where it is not customary to do so is to lay upon it a new duty which may involve a very serious expenditure in the future.

"If the provision does not exist, there are very many ways in which the villagers can find sites for themselves when their villages have been swept away

by erosion. It certainly has, as my hon'ble friend Dr. Rashbehary Ghose has mentioned, been customary in Bengal for villagers to find sites for themselves. It is obvious that, if a provision of the law were now to enable a Local Government to provide sites for these villagers, it would be in their interest to move the Local Government in the direction of providing such sites at the expense of the Government, even in cases in which without such a provision they would have found means, as they have done for centuries, to acquire sites without assistance; but to lay upon the Government what may prove an extremely expensive burden, and certainly is a new one, namely, that of providing village-sites in any case in which the Local Government thinks it desirable, is a measure to which I should have the strongest objection."

His Honour THE LIEUTENANT-GOVERNOR said:—"With reference to what has fallen from my hon'ble friend Dr. Rasbehary Ghose, to the effect that no inconvenience has been felt in Bengal by the absence of any such provision as this, I should like to say that cases have come to my knowledge in which very serious difficulty has been felt from the absence of this provision. Cases have occurred within my experience in which large landholders control the entire land round some particular village or station, which is a growing and increasing one, in which they exercise great, and sometimes undue, authority over the inhabitants by refusing to allow them to buy land for the sites of their houses, and by forcing them to accept leases on terms which the persons concerned think to be unduly severe. It would be convenient in many cases if sites could be provided under this section, for instance, for *amlas*, a class of ministerial officers attached to our Courts in sub-divisions. It has been brought to my knowledge that in some instances these officers have found it impossible to buy places to live in, and have been obliged to accept leases and grants of land framed in a manner which seemed to place them under liabilities and obligations to the landowners, which obligations might be thought to be liable to act in a manner prejudicial to the performance of their public duties. I would further urge upon the Council as a general question whether the language of the section as it now stands is suitable, and whether the phrase that isused giving the Government power to act only where it is customary to do so is one under which action can conveniently and properly be taken. A Local Government decides, under circumstances that are brought to its knowledge, that it is necessary to provide sites for the expansion of a village or town, or for the provision of houses for its own servants. Who is to decide whether it is customary or not? If the Local Government chooses

to say it is customary, who is to put it to the Local Government's conscience and say 'Are you stretching your powers or are you acting in accordance with the spirit of the law?' I submit that this is a position in which the Local Government should not be placed, and it ought not to be possible for the Civil Court to interfere, as I conceive it might do, and to say that Government must prove the fact of the custom, or else that it is acting in opposition to the law.

"On these grounds I wish to support the amendment brought forward by my hon'ble friend Mr. Lee-Warner."

The Hon'ble MR. LEE-WARNER said:—"I should like, in conclusion, to make one remark. It is natural that the Hon'ble Member in charge of the Bill and the Hon'ble Mr. Westland should be anxious to avoid the expense to Government involved in the proposal which I have brought forward. I may explain, however, that it was partly with the same motive that I was unable to accept the suggestion made by the Hon'ble Member in charge of the Bill that the words "provided that the cost is wholly met from public funds" should be added; because I felt that, if the villagers came forward and said 'We are in such terror of remaining in this village that we are willing to bear part of the cost of providing a new site,' it would be contrary to public policy to refuse such a contribution for this purpose. All we contend for is to give the Local Government a power which it does not at present possess, and that it does not possess this power the papers before the Council, as, for instance, the report of the Collector of Bijapur, sufficiently show without falling back upon the letter which the Bombay Government wrote in 1885 to the Government of India, in which they pointed out that they were legally advised that under the law they could not take up a village-site. The Government of India then replied that the matter would be looked into and, if possible, provided for when the Act was under amendment. That pledge I now ask the Council to redeem.

"The Hon'ble Member, who seemed to think that no practical difficulty had occurred, must have overlooked what the Collector of Bijapur says:—

'One of the occasions on which the insufficiency of the old Act was most felt was the necessity of providing new village-sites in cases where the existing site has been washed away, and great difficulty has often been experienced.'

"We must bear in mind that all that this amendment now proposes is to remove that objection. The clause would be permissive, not obligatory; it would still rest with the Government to decline to provide money for the

purpose, and if they declined then there would be no declaration that any village-site was required. Custom may very likely be established in some cases, but my object is to avoid any undue straining of the clause inserted in the Bill, which makes it necessary to declare that it is customary to provide village-sites in the district. The Hon'ble Dr. Rashbehary Ghose has told us that in this part of India, where there are large zamindari tenures, the villagers provide their own village-sites, and that it is not necessary to interfere; but in Bombay, where every single acre of land is taken up, and where a village-community, if it moves at all, must move *en masse*, the Local Government has represented its difficulties, and asked for powers which I trust that the Council will give."

The Motion being put, the Council divided :—

Ayes.	*Noes.*
The Hon'ble Maháráját Partab Narayan Singh of Ajudhiá.	The Hon'ble Mr. Playfair.
The Hon'ble Mr. Lee-Warner.	The Hon'ble Gangadhar Rao Madhav Chitnavis.
The Hon'ble Mr. Clogstoun.	The Hon'ble Mr. Buckingham.
The Hon'ble Dr. Lethbridge.	The Hon'ble Mr. Stevens.
The Hon'ble Sir Antony MacDonnell.	The Hon'ble Fazulbhai Vishram.
The Hon'ble Sir Charles Pritchard.	The Hon'ble Sir Griffith Evans.
The Hon'ble Lieutenant-General Brackenbury.	The Hon'ble Dr. Rashbehary Ghose.
His Excellency the Commander-in-Chief.	The Hon'ble Mr. Westland.
His Honour the Lieutenant-Governor.	The Hon'ble Sir Alexander Miller.
For the amendment . . 9	*Against the amendment* . 9

His Excellency THE PRESIDENT gave his vote to the provision of the Bill as appended to the Report of the Select Committee. The amendment was accordingly negatived.

The Hon'ble FAZULBHAI VISHRAM moved that in section 5 of the Bill, as amended, for the words "Collector or other chief revenue-officer of the district, and such decision shall be final," the words "Court as provided in section 18" be substituted. He said:—"In support of this I wish

only to observe that the finality of the Collector's award contemplated by section 5 of the Bill will entail great hardship upon the parties interested. It seems to me that for the purposes of acquiring land for public purposes the Collector acts as a mere agent to Government, and to vest such an agent with such absolute powers may lead to failure of justice. For under the present procedure, when a case is referred by the Collector to the Judge, the claimant stands in the position of a plaintiff and the Collector that of the defendant, and to constitute the defendant in a suit as a Judge (as proposed by section 5) will be something like an anomaly. To vest the Collector with absolute power of determining the damage, which may sometimes be as serious a matter as the determination of compensation and apportionment, and to expect a Collector who has absolutely no training in judicial work to perform the functions of a Judge, seems to me to be open to objection."

The Hon'ble SIR ALEXANDER MILLER said :—"I wish to say that this section deals only with the case of certain small amounts for damage consequent upon the entry upon the land; to make it the subject of a regular suit before a Judge seems to be very unnecessary, and we thought that quite sufficient protection was given to the claimants by providing that these claims should go to the chief revenue-officer of the district in person, and not be decided merely by the person acting as Collector. The actual Collector of the district is not to be at liberty to delegate his authority in a case o this sort, and we thought that it was much more reasonable to give a summary procedure before him in such a small matter than to send it to the Judge, who no doubt is the proper authority to determine the value of the land itself, when the Collector's award is objected to."

The Hon'ble MR. STEVENS said :—"I wish to remark that this provision is merely for the rapid disposal of such claims as may be made for damages under section 4, that is, damages incurred in entering upon the land. The Bill goes beyond the existing law. Under the existing law such a matter is decided by the person who is called a Collector, but who in most cases is a Deputy Collector. The Select Committee propose that, instead of the case being decided by him, the ultimate decision should be made by the chief revenue-officer of the district, and therefore the Bill as it now stands gives more security than the present law."

The amendment was put and negatived.

The Hon'ble SIR ALEXANDER MILLER moved that in section 6, proviso, of the Bill, as amended, the words "out of" where they occur the second time (in line 5) be omitted. He said:—"The amendment is a purely formal one and arises in this way. The Bill as it originally came out of Select Committee provided that—

'no such declaration' [of intended acquisition] 'shall be made unless the compensation to be awarded for such property is to be paid out of public revenues, out of some fund controlled or managed by a local authority, or by a Company.'

"Then, in deference to a representation from Bombay, the words 'wholly or partly' were put in before the words 'out of public revenues.' But the words following, 'out of some fund,' read grammatically, would imply that 'wholly or partly' should be confined to 'public revenues,' whereas they were intended to apply also to 'some fund controlled or managed by a local authority.' In order to make that clear I propose the amendment in question."

The amendment was put and agreed to.

The Hon'ble MR. PLAYFAIR moved that in section 9, sub-section (*4*), of the Bill, as amended, after the words "in a letter addressed to him" the words "at his residence or place of business" be inserted. He said:—"The amendment I have the honour to propose is intended to facilitate the working of the Act by securing convenience to persons whose property is situated at a distance from their ordinary place of residence, and who might not receive early notice of the intention of Government to acquire such property for public purposes, It not infrequently happens in India that the post office receives letters for delivery with no fuller directions than the town, sometimes only the district, in addition to the name of the person, and there must always be a certain amount of risk in the expeditious as well as in the safe delivery of such letters. Without the insertion of the amendment I have the honour to propose it would be possible for the office of the Collector to carelessly issue notices under this Act without taking the trouble to ascertain and direct them to a correct address, and I have the honour to submit that such a contingency should, as far as possible, be guarded against."

The Hon'ble SIR ALEXANDER MILLER said:—"The only difficulty about that is that it is quite possible that the man's private address would not be where the notice ought to be given. He might have directed that the notice should be sent to him at some other place, say, at his solicitor's office, and it would be

necessary, I think, to enlarge the description so as to cover such cases. But is it not the fact that a letter sent to him by post must necessarily, under the Code of Civil Procedure, be addressed to some place where he ought to be found? I would propose that the amendment be put in this way, that for the words 'at his residence or place of business' the words 'at his last known residence, address or place of business' should be substituted."

The amendment, with the further amendment suggested by the Hon'ble Sir Alexander Miller, was put and agreed to.

The Hon'ble GANGADHAR RAO MADHAV CHITNAVIS moved that in section 10, sub-section (*1*), of the Bill, as amended, for the words "for the year next preceding the date of the statement" the words "for three years next preceding the date of the statement" be substituted. He said:—"The amendment proposed by me is with a view to enable the Collector to come to a better and more accurate determination of the award. A statement giving the rents and profits derived from the land for one year preceding would, I respectfully submit, be a very unsafe guide in such matters. The year preceding may be one exceptionally good or one exceptionally bad, and to make a calculation for the sake of award on the strength of a statement of profits received during such a year may at all events happen to be inaccurate and unfair to either side. It is thus, I believe, essentially necessary, in order to remove misunderstandings in future, to require the parties to furnish a statement with profits and rents received or receivable during the preceding three years. I have thus ventured to place this amendment before you, and I hope it will meet with the approval of Your Lordship and the Hon'ble Members of the Council."

The Hon'ble DR. RASHBEHARY GHOSE said:—"I venture to think that the Hon'ble Member who has proposed this amendment is labouring under a slight misapprehension as to the true scope of section 10 of the Bill. All that that section says is that the Collector may call upon the claimant for a statement of the rents and profits received or receivable on account of the land for the year next preceding the date of the statement, and sub-section (*2*) says—

'Every person required to make or deliver a statement under this section or section 9 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.

"There is no objection to a claimant, if he chooses to do so, making a statement of the rents and profits not only for three years but for any number of years, and I should think that the Collector would be only too glad to have such a statement before him. If, however, the amendment is carried, the Collector would be entitled to call upon the claimant to furnish a statement for a longer period, a requisition which he might in some cases not be in a position to comply with, and he would then lay himself open to very serious penalties. I venture to think, therefore, that the proposed amendment is not likely to serve any useful purpose; on the contrary, it would impose upon the claimant an obligation which he might find it difficult in some cases to discharge to the satisfaction of the Collector."

The Hon'ble LIEUTENANT-GENERAL BRACKENBURY said:—"I support this amendment. The object, as I take it, of section 10, sub-section (*i*), is to enable the Collector to have an estimate of the rents and profits ordinarily received or receivable from the property in question, in order that he may be able fairly to assess a claim for compensation. I do not think that it would be possible to assess that claim for compensation on the rents and profits received for one year only. Three years is the period taken in Government estimates; we consider that that is a fair amount of time upon which to base an estimate of any real value, and I think that three years ought to be taken in this case."

The amendment was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER moved that in section 18, sub-section (*i*), of the Bill, as amended, after the word "compensation" where it first occurs, the words "the persons to whom it is payable" be inserted. He said:—"It was agreed by the Select Committee that the words 'the persons to whom it is payable' should be introduced into this sub-section in order to bring it into conformity with section 30, and we have actually mentioned in the Report of the Select Committee, paragraph 10, that—

'the object of the slight addition made by us to section 18 (*i*) is to make the provisions of that section as to disputes concerning apportionment the same as those of section 30 on that subject.'

"It was quite by an accident that that addition has not been made, and I now move to insert it."

The amendment was put and agreed to.

The Hon'ble DR. RASHBEHARY GHOSE moved that in the first clause of section 23 of the Bill, as amended, for the words "market-value" the word "value" be substituted. He said:—"I would ask permission to slightly modify the language of the amendment, because I find that the words 'market-value' occur in more places than one in section 23, and the amendment ought therefore to run as follows:—

that in section 23 of the Bill, as amended, for the words 'market-value', wherever they occur, the word 'value' be substituted.

"The ground on which I ask that the word 'value' should be substituted for 'market-value' is that the section as it now stands assumes that everything which may be acquired under the Statute for public purposes has got an ascertainable definite market-value; but there are things of which you cannot say that they have got any market-value: a church, for instance, or a temple. I am not putting merely a hypothetical case, for an instance actually occurred recently in the Presidency of Madras in which the question arose as to whether or not the owner of two very ancient temples was entitled to any compensation under section 24 of the present Act.

"The case came before the High Court, and a Division Bench of the High Court decided that the owner was not entitled to anything because, as Mr. Justice Shephard said, the temples did not possess any market-value. That decision was confirmed on appeal to the Privy Council, and their Lordships in delivering judgment said:—

'The case was heard by Mr. Justice Wilkinson and Mr. Justice Shephard. As regards the temples and carvings, they both agreed with the District Judge that they have no market-value. It is highly improbable that they should have any. No evidence was offered to shew that there is any; and Mr. Justice Wilkinson adds that the claimant's counsel did not assist the Court by suggesting any price which might be offered as a fancy price. Their Lordships find themselves in a like position with the High Court, and all they can do is to express agreement with the Courts below on this point.'—*Law Reports, Indian Appeals, Vol. 20, p. 87.*

"I suppose no evidence could have been offered to show that there is any market-value for temples, either in Madras or in any other part of India. The result, therefore, was that the owner of the temples was expropriated, and it was held that he was not entitled to *any* compensation. In the English Land Clauses Act the term used is not 'market-value' or market-price, but

'value,' and the law on this point in England is summed up in a well known text-book on the subject. At page 114 of *Cripps on Compensation* it is said:—

'The value to the owner can be ascertained either by a valuation of the lands taken with the addition of compensation for incidental injury, or by what is known as the reinstatement principle. In either case, the test of compensation is value to the owner. The difference arises in the method to be adopted in ascertaining this value. In a majority of cases, the value to the owner may be fixed by the value of the property taken, with the addition of compensation for incidental injury; but in some cases the value so ascertained would not be the value to the owner, and then the principle of reinstatement should be applied. This principle is that the owner cannot be placed in as favourable a position as he was in before the exercise of compulsory powers, unless such a sum is assessed as will enable him to replace the premises or lands taken by premises or lands which would be to him of the same value. It is not possible to give an exhaustive catalogue of all cases to which the principle of reinstatement is applicable. But we may instance churches, hospitals, houses of an exceptional character, and business premises in which the business can only be carried on under special conditions, or by means of special licenses.'

"In order to obviate any possible misconception I propose to add the following proviso in the shape of an explanation to the amendment in the paper:—

'"Value" shall mean market-value when the property has a market-value, but in cases where the property has no market-value the value shall be deemed to be such a sum as will enable the owner to replace the premises or lands taken by premises or lands which would be to him of the same value.'

"The Madras case illustrates the necessity for amending the language of the law as it now stands. A somewhat similar difficulty would arise in dealing with mansion houses in the country under the Act. There is no market for such houses, however expensive and costly in the interior of the country. I submit, therefore, that there can be no harm in adopting the word 'value,' qualified as it is by the explanation which I am going to add to it, for the words 'market-value' which are now to be found in the Bill."

The Hon'ble SIR ALEXANDER MILLER said:—"I should not object to the amendment on the paper at all myself. I think that, wherever an article is marketable, the market-value is the proper test of its value. But it is true that there may be cases—in fact, there has been one in which the

article had a very considerable value in which was decided that it had no market-value. No particular harm was done in that case, because the temple concerned was merely taken for the purpose of preserving it, and it was just as valuable to the people after it was taken as it was before. But, suppose it had been taken for the purposes of a railway, it would, I think, be rather a hard thing to say that it had no value, and therefore that it was not to be paid for because it had no market-value and was not a source of income to the owner, and, therefore, quite irrespective of the contention of the Hon'ble Member, I think the word 'value' is a better word to use in this Bill than the words 'market-value'.

"I should object, however, to the proposed explanation, because I see great objections to any attempt to define 'value' or 'market-value.'"

The Hon'ble MR. LEE-WARNER said:—"I think that although this amendment has the support of the Hon'ble Member in charge of the Bill, yet it is one of such widespread importance, and affects so much the whole principle of this Bill, that it is rather dangerous at the last moment to touch this very debateable phrase 'market-value,' merely because in a particular instance the application of market-value to the acquisition of a particular temple proved difficult. If the Council have read the various discussions and reports of the Select Committees, it will be remembered that on no subject has there been greater difference of opinion than on this of market-value. It was at first attempted to define it, and then, in deference to strong representations for and against that course either side, the phrase 'market-value' was not defined. We have got the word in the present Act as it stands. During the many occasions that Act has been applied, certain ideas and rulings of the Courts have collected round the expression 'market-value.' At any rate it is a more precise explanation of what is required than the vaguer word 'value.' I am not sure that, if we had no other property to take up for a public purpose except temples, it would be necessary to change the phrase. I remember a particular case in which a temple was required not for preservation but for submersion in a large reservoir. The villagers declined to sell it, not because it was of no value, but because it was impossible for them to assess the value, and they would be no parties to the sale of so sacred an edifice. It devolved upon me to settle the case, and I simply ascertained by inquiry what the cost of erecting the temple had been. I also was able to assess with perfect ease the value of the land on which the temple stood, and, having addressed the Government on the subject, I was permitted to place in deposit at the treasury, to be paid on the call

of the village-headmen, the sum of money which I had awarded. In due course of time they purchased another site, the temple was removed and a new temple set up where it was required. The case, however, is so very rare that it seems to me that it would be dangerous at this stage to go and uproot a phrase which has been deliberately adopted throughout the Bill, and to unsettle the whole question of 'value' and 'market-value' which it was hoped was at last laid at rest by the manner in which this Bill was drawn up. For this reason I should be sorry to support the alteration of a phrase in reference to a matter in which there has been so much discussion."

The Hon'ble SIR GRIFFITH EVANS said that, in the case referred to by the Hon'ble Mr. Lee-Warner, he had not committed the injustice of taking the temple for nothing, as he might have done, but had made a representation to the Local Government and settled the question of compensation to the owner. It was not, however, everybody who would be so tender-hearted. This went to show there was need of amendment in the law. He, however, quite agreed with the Hon'ble Member that it would be unsafe to alter important words with regard to which there had been so much discussion, and so many decisions, at this late stage. If new words were adopted, he feared that there might be a great deal of litigation over again. He would not be inclined therefore at this stage of the Bill to alter the words, unless the proviso which his hon'ble friend Dr. Rashbehary Ghose had suggested, limiting the change to cases where there was no market-value, were adopted. If such an explanation were adopted, it would remove any objection of the kind the Hon'ble Mr. Lee-Warner had put forward. It would leave the law exactly as it was with regard to every case save the exceptional cases where there was no market-value.

The Hon'ble SIR ANTONY MACDONNELL said:—"I agree with my hon'ble friend Sir Griffith Evans that it is very undesirable at this stage to introduce into the Bill so far-reaching a change as that suggested. If the Council will refer to paragraph 14 of the Further Report of the first Select Committee, they will find it there stated that—

'we have again considered the question of a definition of the term 'market-value,' but we adhere to the opinion of our Preliminary Report that it is preferable to leave the term undefined. No material difficulty has arisen in the interpretation of it; the decisions of the several High Courts are at one in giving it the reasonable meaning of the price a willing buyer would give to a willing seller; but the introduction of a specific definition would sow the field for a fresh harvest of decisions; and no definition could lay down for universal guidance in the widely divergent conditions of India any further rule by which that price should be ascertained'

"I think it would be unwise to introduce the change now proposed at this stage. My disposition is to agree with the substance of the Hon'ble Dr. Rashbehary Ghose's proviso, but I cannot say how far that proviso would meet the case, and at this stage of the Bill I think it would be difficult to speak with certainty on the subject."

The Hon'ble SIR CHARLES PRITCHARD said:—"The question of the phrasing of this sub-section of the Bill received very careful attention at the hands of the Select Committee which considered the Bill on two separate occasions last year. That Committee, of which my hon'ble friends Sir Alexander Miller and Dr. Rashbehary Ghose, as well as myself, were members, reported unanimously in favour of the retention of the words 'market-value,' as used in the existing Act, for reasons that are stated in paragraph 7 of its original report dated the 1st February, 1893, and are more fully explained in paragraph 14 of its second report dated the 22nd March, 1893. The new Select Committee which has recently again considered the Bill has also reported in favour of their retention. The Hon'ble Mover of the amendment does not contend that, even in the extreme case which he has cited, the use of those words has led to any material injustice or inconvenience; the interpretation to be placed upon them has now been settled, after much litigation, by decisions of the Courts, and I would deprecate any alteration of them which would only sow the field for a harvest of further litigation and fresh decisions."

His Honour THE LIEUTENANT-GOVERNOR said:—"I quite agree with what has fallen from the two Hon'ble Members who have last spoken and also from my hon'ble friend Sir Griffith Evans on this subject. I think it would be extremely inadvisable to alter the law so suddenly and to make an alteration which even the Hon'ble Mover of the amendment had not foreseen the full effect of when he put his amendment on the paper, inasmuch as he has been obliged to suggest a further addition to it which I have only heard now for the first time. It would, in my opinion, be a very serious matter for this Council to accept an important and serious change in the law in such a light-hearted way, and if the amendment should be carried I should feel it my duty to move that the consideration of the Bill should be postponed, and that it should not be passed into law until the matter was further considered."

The Hon'ble DR. RASHBEHARY GHOSE said:—"It is said that it is impossible to foresee the full force and meaning of the proposed amendment; but the word 'value' is, I submit, not new in its application to land required for public purposes. It is to be found in the English Land Clauses

Act, from which our own Act has been copied with variations which have not always been improvements. The word 'value' has received a definite meaning, certainly of a less flexible character in England than the words in the Indian Act, and the passage which I read to Hon'ble Members from *Cripps on Compensation* shows what construction has been put on that word by English Judges in the English Courts. The principle adopted by the English Courts is the very same principle which the Hon'ble Mr. Lee-Warner followed when he acquired a Hindu temple for public purposes. It is known as the principle of reinstatement. It has been said that it would be dangerous to accept the amendment now proposed at this moment. It is true the particular case in the reports was not present to my mind when the Select Committee sat on the last occasion; but I venture to think that we should not be doing our duty if we left a question like this unsettled;—unsettled perhaps is not the proper expression to use. We should leave all persons who might happen to have property of this valuable character liable to be expropriated, no doubt for the most benevolent purposes, without any compensation at all; because the law as laid down by the Privy Council must be binding on every Court in this country from the highest to the lowest. We shall have to wait—I do not know for how many years—for an amendment of the law, and, even if this amendment could be carried only at the cost of another reference to the Select Committee, I do not think that ought to be a sufficient ground for the rejection of my proposal. I propose, therefore, as there seems to be less objection to the amendment with the proviso, to take the amendment as a whole, and to add what I have just read as a rider to the amendment which stands in my name. It is perfectly true—and I am sorry to admit it—that I was not able to give notice of this amendment until yesterday afternoon; but the amendment I propose does not involve questions of a novel or of a very abstruse character, and I submit, for the reasons already stated, that it is one which ought to be adopted, as great injustice and hardship might otherwise arise in the case of property which has either no market-value, or the market-value of which cannot be ascertained in any of the ordinary modes now followed by our Courts."

His Excellency THE PRESIDENT said:—"I should like to say that, as I understand the Rules of Business, even if this proviso were approved, it should be put as a separate amendment, and not taken as part of the amendment before the Council. The amendment must be put, I take it, in the form in which it appears on the paper, and if any Member of Council takes objection to the proviso it cannot be put."

The Hon'ble SIR ANTONY MACDONNELL said that he did not like the

proviso and would vote for the Bill as it stood, but, if the Hon'ble Member wished to have the proviso, he might perhaps, with the permission of the Council, suggest another form of amendment which might meet the case.

His Excellency THE PRESIDENT thought that the proper course would be to put the amendment as it stood upon the notice-paper.

The amendment was put and negatived.

The Hon'ble MR. PLAYFAIR moved that in section 23, clause *fifthly*, of the Bill, as amended, after the words "the reasonable expenses" the words "and loss" be inserted. He said:—"I do not find that a definition has been given to the meaning of the word 'expenses' which appears in this section of the Act. The ordinarily accepted meaning of the word implies outlay, but for the present purpose this might prove to be a restricted meaning, and might be limited to the cost of removal of goods and effects from one place of residence, or place of business, to another. I have the honour to submit that the compulsory change of residence, and especially the compulsory change of a place of business, may result in a serious loss to the persons concerned, and I therefore beg leave to suggest that the Court should be empowered to take into consideration compensation for loss through disturbance, incidental to a compulsory change of residence, and more especially a change affecting a person's business. Locality often possesses an element of convenience, which has an important value in connection with business; and, if a person enjoys such special advantage through having established himself in a particular site, it may be for a long period, it seems to be reasonable that he should be entitled to compensation when he is disturbed for the benefit of the general public. I have the honour to submit that in cases such as this Government should err, if anything, on the side of liberality to those from whom it acquires land, for the benefit of the community, which, as a site, has acquired a business value. On the other hand, an applicant for loss sustained through compulsory change of place of business could not succeed if he makes an extravagant demand, as the context of this section provides that he shall receive nothing more than compensation for reasonable expense and loss (if any) incidental to such change. And, if the applicant and the Collector disagree, the Court of appeal would finally determine the reasonable loss."

The Hon'ble SIR ALEXANDER MILLER said:—"I think that, if the Hon'ble Member had read the paragraph which immediately precedes the one which he

proposes to amend, he would see that the point is immediately covered by it. Amongst the things which the Collector is to take into account are damages to the moveable and immoveable property of the claimant "or his earnings"; consequently, if he loses anything in his business, or in the shape of having to transport his furniture, or move his property, that would be taken into account under the fourth head, and I do not think it is necessary to add it over again under the fifth head."

The Hon'ble DR. RASHBEHARY GHOSE said :—" I am unable to accept the proposed amendment to add ' and loss ' in the fifth head in section 23, and for the reason which has been given by my hon'ble friend Sir Alexander Miller. In this country, although the law is different in England, compensation may be given for the loss of moveable property and also for the loss of earnings. Any loss, therefore, which would presumably be compensated for under the Hon'ble Mr. Playfair's amendment would be compensated for under the fourth clause, because it would be either loss as regards the person's earnings or loss as regards moveable property, in the case, for instance, of any injury to a tradesman's stock in trade."

The amendment was put and negatived.

The Hon'ble MR. LEE-WARNER moved that for the last clause of section 24 of the Bill, as amended, the following be substituted, namely :—

> " *seventhly*, any outlay or improvements on, or disposal of, the land acquired, commenced, made or effected without the sanction of the Collector after the date of the publication of the declaration under section 6."

He said :—" This amendment was already suggested to me by some papers which were laid before the Select Committee, but on the whole I thought it inadvisable to make any proposal then. After, however, the Select Committee had performed its duties, the Government received a letter from the Indian Association, dated January the 26th, which proposed one part of the amendment which I now wish to move. I then looked over the papers again, and finding that a somewhat similar proposal had received the support of my lamented friend the late Hon'ble Mr. Justice Telang, and had also been supported by the Punjab Government, as well as by the Government of Bombay, it seemed to me that it would be advisable to take this last opportunity for considering the proposal of the Indian Association, which ran in the following terms :—

> ' Suppose a claimant has begun to erect an additional room to his house for his convenience, or to repai rthe same before the publication of the declaration. The Association

is of opinion he should either be permitted to complete the same or else compensated for his inconvenience. The Association does not see why, in order to enable Government to make the acquisition at less cost, he should deny to himself the comforts and safety which he might otherwise have had between the date of publication and the date of taking possession, unless it should appear clear that the only object he had in view was to add to the value of the compensation.'

"It will be observed that I propose to meet this difficulty by the second part of my amendment—the words 'without the sanction of the Collector'; because what I propose is that any outlay or improvements sanctioned by the Collector may be allowed for. In the same way the District Judge of Lahore referred to the same difficulty in these terms :—

'Suppose the owner has half sunk his well or dug a length of half or more of his canal cut, or suppose the works are nearing completion. Is he to stop all further work because of the declaration in the Gazette? If the works were completed, the owner might derive considerable profit between the completion and the time of making of award by the Collector.'

"I myself recollect a case in which Government took up a very large tract to form the bed of a storage supply for water. Of course, as the embankment or bund rose, the area covered by the water extended, but it took three years to complete the embankment. The result was that the villagers on its extreme margin were able to go on cultivating for three years after the Government had not only given their declaration but had taken possession. In such cases it seems to me that if a man has partially sunk a well, and all but finished his work, it is only right that the Collector should say to him 'Well, you may finish your outlay of capital, and I will give you the compensation.' I would observe in passing that it is satisfactory to find that the Indian Association admit that the amended Bill is a great improvement on the Bill as originally introduced and also on the existing Act, and that the several suggestions made by them have all more or less been considered by the Select Committee, or at least placed before it in the recommendations of the various Local Governments. I am anxious now to take the opportunity, offered by this further recommendation from the Association to go back to the reports from which I have quoted, and provide an authority which will enable the Collector to sanction the completion of certain improvements and so award compensation for them. Turning then to the rest of my amendment, I would also ask permission to add the words proposed by the Bombay Government 'or disposal of'. It seems to me that this might possibly meet the objections which the Hon'ble Dr. Rashbehary Ghose brought to the words 'market-value,' because (I may be wrong, but)

it appears to me that in the case of acquiring a site for any public purpose on which a temple was built, if the Collector were to say to the owner 'Well, I see that the Act is likely to cause difficulty in assessing the "market-value" of your temple. You may therefore make a fictitious sale and sell it to a religious body for a reasonable sum of money,' we should then get over the difficulty of there being no 'market-value.' Possibly the guardians of a temple, who object to sell the sacred object to Government, might be willing to sell it to a Brahman priest, and the price of that transaction, if approved of by the Collector, would guide him as to the price of acquisition and the determination of 'market-value.' Passing, however, away from this exceptional application of the proposed amendment, and dealing with the case put by the Government of Bombay, the Council will observe that the Collector of Bombay reports that fictitious sales are not uncommon. I am aware that if these sales are really fictitious the answer will be given that they are really no sales at all; but there may be sales which it might be difficult to prove to be fictitious, and at any rate you can stop them by forbidding any disposal of the land acquired which will be the result of this part of my amendment. I would, therefore, move that this section should run as it is set down in the amendment."

The Hon'ble SIR ALEXANDER MILLER said that he had no objection to the amendment; it seemed to him to be an improvement.

His Honour THE LIEUTENANT-GOVERNOR said:—"I listened carefully to the Hon'ble Mover's speech, but failed to catch completely the object of the amendment proposed. He puts the case of a tract of country which is being slowly submerged, and in which a raiyat goes to the Collector and says 'I spent five hundred rupees on this well. I shall get five hnndred rupees compensation; will you allow me to spend one hundred rupees more to finish the well, and to use the water from it before the land is wanted.' Then I presume the Collector will say 'If you think the use of the water for two or three years will compensate you for spending the additional hundred rupees, you may use it, but do not expect that you will get a profit out of the land and also get your one hundred rupees back from the Government.' I cannot understand the exact case which the Hon'ble Member intended to provide for, and perhaps he would be good enough to explain the circumstances under which compensation should be given for an improvement which has been carried out after the first declaration has been issued, and in which it would be likely that the Collector would sanction such an improvement knowing that the Government would have to pay for it in the course of a very short time."

The Hon'ble MR. LEE-WARNER said:—"I desire to be more liberal to the man whose land is compulsorily required than His Honour the Lieutenant-Governor seems to think necessary. His Honour says that the owner would get a profit out of the land; but the three years, which would elapse in the extreme limit of the case I put, after the declaration, and before the land is submerged, would be a very short period for the man to get a return for his capital sunk in the well, even if he got paid back what he had spent in sinking it before the declaration. It seems to me that nothing should be done to discourage thrift and the application of capital to the land, and I have always regretted that the present law does not allow you to compensate a man for completing an improvement which very often he had no reason whatever for supposing that he would not reap the full benefit of. It frequently happens that in irrigation schemes at the last moment some further outlying bit of land will be submerged which was never contemplated in the original plans, and the man in perfect good faith may have begun to sink his well without a thought that his field would be required, losing not merely the cost of the material and labour but also interest on his outlay and the money-lenders' charges. All I desire is to place him in the best position possible and allow him, when the Collector permits him to complete his work, to receive compensation for the whole of it."

HIS EXCELLENCY THE COMMANDER-IN-CHIEF remarked that it appeared to him a very arbitrary proceeding that power should be taken to make a sale of property, effected under conditions that would often interfere with the original intention of the owner, outside consideration for compensation on the opinion of the Collector.

The amendment was put and agreed to.

The Hon'ble FAZULBHAI VISHRAM moved that in sub-section (*2*) of section 27 of the Bill, as amended, the words from "unless the Court" to the end of the sub-section be omitted. He said:—"With regard to this amendment I find that in section 27, sub-section (*2*), some change is proposed to be made about the costs. I am of opinion that, when the party interested succeeds in upsetting the Collector's award, it is nothing but equitable and just that he should get his costs, and to make him pay any portion of the Collector's costs is indeed a hardship. The reasons given in the Committee's report are that, if the party makes an extravagant claim or suppresses evidence before the Collector, he should be mulcted in

costs. I think that these reasons are not very cogent, for they only apply to cases of exceptional nature and not generally, and, therefore, if the public generally are to be punished in the manner suggested, then they will be deterred even from putting forward their just claims for fear of being mulcted in costs. For it makes no difference with the Collector as to the amount of costs, which he must under any circumstances incur in supporting his award; and if the contention of the Committee be correct, then it will be equally equitable and just, if the Collector's award be ridiculously small, that he too should be mulcted in additional costs."

The Hon'ble SIR ALEXANDER MILLER said:—"I hope the Council will not accept this amendment. No doubt the law as it stands is that if the award of the Collector is not upheld, even if only a single rupee extra be given, the Collector must pay all the costs; and the result is that there is no check whatever on the most extravagant demands. A man may make any demand he pleases knowing that if he gains even a single rupee he would gain all his costs as well. It was proposed, on the other hand, to make the costs of the reference follow the result of the issue in the same way in the costs of ordinary proceedings. It was thought that that would be unjust to the other side, that inasmuch as the Government were taking up this land for public purposes they ought *primâ facie* to pay all the expenses incident to it, but that it was reasonable to give the Court a discretion in the case of very extravagant claims or claims very badly conducted, where possibly the reference would never have been necessary if the parties had acted reasonably; that in such cases the Court might well be given a discretion to deprive the claimant of costs or even to make him pay costs. This arrangement is, I venture to think, a very reasonable one, and one that ought to commend itself to the judgment of the Council."

The Hon'ble SIR GRIFFITH EVANS said:—"There is no doubt that it is desirable to make the costs ordinarily fall upon the Collector in cases where the award is upset, but it is in the knowledge of those who have had experience in land acquisition cases that exceedingly large and baseless claims are often put forward—claims sometimes amounting to lakhs of rupees; and they are put forward with a feeling of immunity—a feeling that, if they get even one hundred rupees beyond the sum claimed, they will be able to have, upon this small addition, all their costs paid. They are consequently encouraged in many cases to engage in heavy litigation in support of extravagant claims. I do not think that it is unreasonable that the Civil Court should have some discretion in the matter of costs and that it should be able to exercise that discretion. They have it in ordinary civil suits and the High Court has the power to mulct

plaintiff in costs or to refuse them costs in cases where they have obtained a decree, and I do not see any objection to giving some power of discouraging extravagant claims in land acquisition cases."

The Hon'ble DR. RASHBEHARY GHOSE said :—"I quite agree with my hon'ble friend Sir Griffith Evans. My experience too as regards land acquisition cases and the extravagance of the claims occasionally put forward points in the same direction. I would only point out, in addition to what has been already said, that, even if the amendment of my hon'ble friend the mover is carried, some discretion must be left to the Court, because he would strike out only the words in section 27, sub-section (*2*), from 'unless the Court,' etc., down to the end of the clause. The sub-section would then stand thus :—

'When the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector.'

"This would undoubtedly give a certain amount of discretion to the Court. The words to which the Hon'ble Member takes exception, instead of widening the discretion, in reality limits its exercise only to cases of a very exceptional character."

The amendment was put and negatived.

The Hon'ble MR. PLAYFAIR moved that in section 30 of the Bill, as amended, for the word "may," in line 7, the word "shall" be substituted. He said :—"I have the honour to submit that under section 30 the Collector should be required to refer to the decision of the Court disputes as to the apportionment of the amount of compensation when the Collector finds he is unable to reconcile the views of those interested in this compensation. If a person contests the Collector's apportionment and presses his contention, it will doubtless be more satisfactory that he should have a reference made to Court for a final decision. I venture to say that such a procedure would be more satisfactory than if the reference were left to the discretion of the Collector."

The Hon'ble SIR ALEXANDER MILLER said :—"I think it will be seen that anyone who objects to the Collector's award has an absolute right, under section 18, to have the matter referred to the Court, and that what this section intends to do merely is to enable the Collector himself in certain very difficult cases to refer the question to the Court of his own motion; but nothing will

prevent any of the parties, who choose to go to the Court, from doing so; and the only effect of the change now proposed would be to compel the Collector to go to the Court although all the parties might be prepared to accept his decision."

The Hon'ble MR. LEE-WARNER said:—"I think it would be very unkind to the parties if this amendment were carried. Some officials would probably be glad of the change, and I have no doubt that many Collectors will find good reason for declining to undertake adjudication as to the apportionment of compensation. At the same time the discretion that the Collector has now conferred upon him by section 30 might have a conciliatory effect. He may settle the apportionment, and both the parties may be disposed at first to quarrel when they hear what the Collector's decision is. They will then on reflection probably say 'Well, it is better to accept this decision than to fight, and on the whole this apportionment seems fair.' I believe then that it will often save the parties litigation if the Collector is allowed to undertake the work of apportionment amongst them. In effect the section as it stands is an attempt to reconcile the objection of some Collectors to have a difficult task thrown upon their shoulders, with the principle that people should not be forced into a reference to the Civil Courts without absolute necessity or their own free choice. The section allows the Collector to decide if he can, whilst it gives him an opportunity of shifting the decision to the Court, and also leaves the parties themselves free to go into Court if they are dissatisfied with the Collector's apportionment. I believe myself that, if the Collectors use the power they are permitted to use under this section, it will very often save the parties expense and a good deal of hot feeling. I should therefore be sorry to see the change introduced."

The Hon'ble MR. STEVENS said:—"I entirely agree with my hon'ble friend Mr. Lee-Warner. If I understood my hon'ble friend Mr. Playfair rightly, he said that, if the Collector is unable to reconcile the views of the parties regarding the matter in dispute, he should be obliged to refer the dispute for decision to the Court. But the words of the Bill as it stands are 'if any dispute arises,' the Collector may refer the dispute to the Court. If the amendment be carried, the effect will be that if any dispute arises the Collector must refer. Having no jurisdiction to consider the dispute, he would have no opportunity of reconciling the parties. Should the Bill become law as it is, he would have this

opportunity, and doubtless his decisions would generally be accepted as final in minor cases. It seems to me advisable that he should go into petty disputes and reconcile the parties."

The amendment was put and negatived.

The Hon'ble SIR ALEXANDER MILLER said:—"Before I move the amendment which stands in the paper in my name I have to ask the permission of Your Excellency and the Council to move a previous one, which is of a merely clerical nature. If Hon'ble Members will look at the last words of section 31 (*1*), they will find that they direct the Collector to tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and direct that he 'shall pay it to them if they shall consent to receive it.'

"Then section 31 (*2*) goes on:—

'If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted.'

"Of course the two clauses are not perfectly consistent, and therefore I propose to leave out the words 'if they shall consent to receive it' and to insert the words 'unless prevented by some one or more of the contingencies mentioned in the next sub-section.' The two sub-sections ought to cover the same contingencies, and the insertion of the words only makes the matter grammatically correct."

The amendment was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER said:—"In the next sub-section as it runs at present it goes on to say:—

'Provided that any person interested may receive such payment under protest as to the sufficiency of the amount,'

the object being of course to get rid of the question of interest by allowing any one who is entitled to the money to take it without preventing him from saying that he ought to get something more; but as the sub-section stands

it might enable a man whose interest was disputed to take the money, and it might afterwards turn out that he was not the right person to take it and that the money had been given to the wrong person. I therefore propose to insert the words 'admitted to be' after the word 'person'; that is to say, that no man whose title is under dispute is to be entitled to take payment until that question is settled.

"I must apologise to the Council for having to propose these amendments. I ought to have settled the matter in Select Committee, but it quite escaped my notice at the time."

The amendment was put and agreed to.

The Hon'ble MR. PLAYFAIR moved that in section 45, sub-section (*3*), proviso, after the words "person named therein" in line 3, the words "at his last known residence, address or place of business" be inserted. He said:—"The amendment I have the honour to propose follows that proposed by me under section 9, and with the remarks I then made I leave this to the Council."

The amendment was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill, as now amended, be passed.

The Hon'ble MAHÁRÁJÁ PARTAB NARAYAN SINGH of Ajudhiá said:—

"The Bill which is about to become law contains some radical alterations in the provisions of the former legislation on the subject, namely, Act X of 1870 and its subsequent amendments.

"Among some of the most important of its changes may be noticed the substitution of a new procedure in case of objections to the Collector's awards as to the compensation, and the discontinuance of the system of assessors to assist the Court in determining the amount.

"These are the points on which I would individually have liked to say something for the consideration of Your Excellency and Hon'ble Members, but as the Bill has been long before the public and has reached the final stage towards its passing into law, and a consensus of opinion has been obtained on these matters, I do not think now to be the proper time for re-opening them.

" As to the main features of the Bill, I must say that in many respects it is a decided improvement upon the old law, and I therefore give my vote that it may be passed."

The Motion was put and agreed to.

The Council adjourned to Thursday, the 8th February, 1894.

S. HARVEY JAMES,
Secy. to the Govt. of India,
Legislative Department.

CALCUTTA;
The 9th February, 1894.

Government of India Central Printing Office.—No. 395 L. D.—9-2-94.—320.—E. H.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Council Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Government House on Thursday, the 8th February, 1894.

PRESENT:

His Excellency the Viceroy and Governor General of India, P.C., L.L.D., G.M.S.I., G.M.I.E., *presiding.*
His Honour the Lieutenant-Governor of Bengal, K.C.S.I.
His Excellency the Commander-in-Chief, K.C.B., G.C.I.E., V.C.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble J. Westland, C.S.I.
The Hon'ble Sir A. P. MacDonnell, K.C.S.I.
The Hon'ble Dr. Rashbehary Ghose.
The Hon'ble C. C. Stevens.
The Hon'ble A. S. Lethbridge, M.D., C.S.I.
The Hon'ble Gangadhar Rao Madhav Chitnavis.
The Hon'ble H. F. Clogstoun, C.S.I.
The Hon'ble W. Lee-Warner, C.S.I.
The Hon'ble P. Playfair.
The Hon'ble Mahárájá Partab Narayan Singh of Ajudhiá.

CODE OF CIVIL PROCEDURE AND INDIAN LIMITATION ACT, 1877, AMENDMENT BILL.

The Hon'ble DR. RASHBEHARY GHOSE moved that the Bill to amend the Code of Civil Procedure and the Indian Limitation Act, 1877, be referred to a Select Committee consisting of the Hon'ble Sir Alexander Miller, the Hon'ble Sir Antony MacDonnell, the Hon'ble Gangadhar Rao Madhav Chitnavis, the Hon'ble Mr. Lee-Warner and the Mover. He said:—"I may mention that the Bill seems to have met with general approval from the different Local Governments and the High Courts, as well as the public bodies who were consulted. Some proposals have been put forward which it is said would have the effect of rendering the measure still more useful. These

proposals will be considered by, and I am sure will receive due attention from, the Members of the Select Committee to which the Bill is about to be committed."

The Motion was put and agreed to.

INDIAN PORTS ACT, 1889, AMENDMENT BILL.

The Hon'ble MR. WESTLAND presented the Report of the Select Committee on the Bill to amend the Indian Ports Act, 1889. He said that, with the permission of His Excellency the President, he proposed to move at the next meeting of the Council that the Report be taken into consideration.

INDIAN STAMP ACT, 1879, AMENDMENT BILL.

The Hon'ble MR. WESTLAND also moved that the Bill to amend the Indian Stamp Act, 1879, with respect to Policies of Sea-insurance and Sale-certificates be referred to a Select Committee consisting of the Hon'ble Sir Alexander Miller, the Hon'ble Dr. Rashbehary Ghose, the Hon'ble Mr. Stevens, the Hon'ble Mr. Playfair and the Mover. He said that the object of the Bill was explained at the meeting of the Council of the 19th October by Sir David Barbour when he introduced it.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 15th February, 1894.

S. HARVEY JAMES,
Secretary to the Government of India,
Legislative Department.

CALCUTTA;
The 13th February, 1894.

Government of India Central Printing Office.—No. 415 L. D.—14-2-94.—320.—E. H.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Government House on Thursday, the 15th February, 1894.

PRESENT:

His Excellency the Viceroy and Governor General of India, P.C., LL.D., G.M.S.I., G.M.I.E., *presiding.*
His Excellency the Commander-in-Chief, K.C.B., G.C.I.E., V.C.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble J. Westland, C.S.I.
The Hon'ble Sir A. P. MacDonnell, K.C.S.I.
The Hon'ble Dr. Rashbehary Ghose.
The Hon'ble Sir G. H. P. Evans, K.C.I.E.
The Hon'ble C. C. Stevens.
The Hon'ble A. S. Lethbridge, M.D., C.S.I.
The Hon'ble Gangadhar Rao Madhav Chitnavis.
The Hon'ble H. F. Clogstoun, C.S.I.
The Hon'ble W. Lee-Warner, C.S.I.
The Hon'ble P. Playfair.
The Hon'ble Mahárájá Partab Narayan Singh of Ajudhiá.

QUESTIONS AND ANSWERS.

The Hon'ble GANGADHAR RAO MADHAV CHITNAVIS asked :—

(*a*) Whether it is the fact that in the Central Provinces, under the rules in the old Settlement Code issued by Sir Richard Temple, the Government share was limited to half assets ?

(*b*) Whether or not it is the fact that malguzar's or proprietor's sir-land has been under the current settlement assessed for the first time according to the prevailing rates in the village, and the malguzar thus deprived of the advantage he derived from it under the old settlement ?

(*c*) Whether the Government considers that the absorption of 60 or 65 per cent. of the assets as land-revenue, and 13½ per cent. on such land-revenue as cesses, leaves a sufficient margin for the landholding classes, after making due allowance for the cost of management, rise in the prices of necessaries, the uncertainties of seasons and of prices, unrealized rents, and miscellaneous income, and other expenses incidental to the management of the village?

(*d*) Whether the Government will be pleased to limit its demand, as in the North-Western Provinces, to half assets, and,

(*e*) If not, will the Government be pleased, in the necessary interests of the landholding classes, to make some reasonable reduction in the high percentage that is now being absorbed as land-revenue and cesses?

The Hon'ble SIR ANTONY MACDONNELL replied:—

"(*a*) In replying to the Hon'ble Member's question, I have in the first place to say that in determining, for the guidance of its officers, the share of the assets to be taken as land-revenue in the Central Provinces, the Government is not bound by any statutory limits.

"It is not the fact that under the old Settlement Code for the Central Provinces the Government limited its revenue to one-half of the assets in the sense in which the term 'assets' appears to be used by the Hon'ble Member. He means, I understand, the actual assets at the time of settlement. In 1855 it was laid down by executive order for the North-Western Provinces 'that about one-half, and not two-thirds as heretofore, of the well-ascertained net assets should be the Government demand,' and this order was extended to eight districts of the Central Provinces formerly known as the Saugor and Nerbudda Territories.

"The meaning of the phrase 'well-ascertained net assets' was explained at some length in paragraphs 47 to 52 of Mr. Thomason's Directions to Settlement-officers in the North-Western Provinces, to which paragraphs the Central Provinces Code expressly referred for a definition of it. To use the words of the 'Directions,' net assets were 'what may be expected to be the net produce during the period of settlement.' It was explained that in calculating 'the net produce of years to come' the Settlement-officer should take into account the waste-land available for cultivation, improvement of cultivation, a rising

demand for the products of the district, the opening of new communications, and so on. In brief, the 'assets' of the old Settlement Code were the prospective assets, not the actual assets at the time of settlement. Hence a so-called half assets assessment of a village at the last settlement of the Saugor and Nerbudda Territories meant very much more as a rule than 50 per cent. of the assets actually realized or realizable at the time. At the settlement now in progress, on the other hand, there is no assessment on prospective assets, but only on assets which are actually realizable when the settlement is made.

"To the remaining ten districts of the Central Provinces the rule of approximate half assets was never even nominally applied. The order in force at the last settlement in the Nagpur and Chhattisgarh country was expressed in the following terms by the Government of India in 1860:—'The true gross rental of each estate having been ascertained by careful enquiry, the Governor General in Council would be disposed to allow the malguzars in all cases at least 40 per cent. for expenses of management and proprietary profits, and to extend the limit in certain cases to 50 per cent.' That is to say, the rule was approximately 60 per cent. and the exception 50 per cent., while the 'true gross rental' meant the prospective, not the actual, rental.

"(*b*) It is not the fact that the malguzar or proprietor has at the current settlement been assessed for the first time at the prevailing rates of the village. As a matter of fact, at the old settlement to which the Hon'ble Member refers, the assets on which the assessment was based included a rent for the malguzar's sir or home farm estimated on the basis of the competition rents paid in the village. This is practically the rule now.

"(*c*) Yes, because the application of the rule for assessing from 60 to 65 per cent. only concerns those exceptional cases in which the revenue taken at last settlement and hitherto paid punctually and without difficulty is found not to be below 65 per cent. of the assets. The application of the rule is permissive only and not obligatory. It is intended only to save the State from the undue surrender of revenue hitherto paid without difficulty. But enquiry will be made as to the operation of the rule; which it is believed has had little or no effect outside the Mahratta Districts, where under Native rule exceptionally high assessments had been imposed.

"With regard to that portion of the question which refers to cesses, I have to say that these cesses, which amount on the average to about 7 per cent. on the

rental, are to some extent paid by the tenants. The larger portion, about 6 per cent., is contributed by the landlord, but more than half of this portion goes towards the pay of the village-accountant, and should, therefore, be regarded as costs of management, which in any case the malguzar would have to incur; while the balance is a contribution to those local objects of public utility, controlled by Local Boards, which are similarly supported in other Provinces. I cannot hold out any hope that these cesses, imposed partly in the interests of the malguzar, partly for objects of local utility, will be reduced.

"(*d*) No, because in comparison with the North-Western Provinces, the position in the Central Provinces at the present is very advantageous in respect to the extent of waste-land and the possibilities of further development.

"(*e*) The rule laid down for the guidance of the Chief Commissioner at the re-settlement now in progress is a material mitigation of that which I have quoted in my answer to question (*a*). The rule now is that the share of the assets to be taken by the Government shall ordinarily not fall below one-half or 50 per cent., nor ordinarily exceed three-fifths or 60 per cent., the average being about 55 per cent. Permission, however, is given to the Chief Commissioner to go below 50 per cent. when he thinks it desirable to do so, having regard to the circumstances of the village; and to go up to, but not beyond, 65 per cent. in those cases in which the revenue of last settlement is found to exceed 65 per cent. of the actual assets as now ascertained, and has been hitherto paid without difficulty. In other words, we take 50 to 60 per cent. (and in exceptional cases between 60 and 65 per cent.) of actual assets, according to the circumstances of the estate, allowing the proprietor to have the whole of the rental of waste-land brought under cultivation during settlement, all the profit of improvements executed by himself, and all the increase on his own lands, on the lands of the unprotected raiyats whose rents he may enhance, or on waste-lands due to the better prices caused by new railways, improved communications and the general progress of the country, etc. Having regard to the facts that under Mahratta rule the malguzars of the Central Provinces had no proprietary rights in their estates, their present beneficial position being the recent creation of the British Government; that the assessment is now fixed on the actual assets, including miscellaneous income; that the raiyats' rents in the Central Provinces, even after enhancement, still represent a very much smaller share of the produce than is usual in other Provinces; that owing to the favourable climatic conditions of the Province those rents are not

subject to the same variations of seasons as in most other parts of India, and that they are collected without difficulty—the Government of India can hold out no hope that a smaller share of the assets than the existing orders allow will be taken as revenue at the current settlement. There will, in my opinion, be greater justification for the Hon'ble Member's suggestion of a rule for limiting the assessment to one-half of the actual assets when the margin of culturable waste-land has been reduced, and the Province has fully responded to the large outlay upon it in the construction of railways and other public works from which it is now very largely benefiting, but to which it has not hitherto made any appreciable contribution."

The Hon'ble GANGADHAR RAO MADHAV CHITNAVIS asked :—

Is the Government aware that grazing-dues and forest-rates in the Central Provinces, even after the reduction made by the Hon'ble Sir Antony MacDonnell, the late Chief Commissioner, press hard upon the agricultural and other classes who make their living by dealing in forest-produce generally? Will the Government be pleased to make a further reduction in this direction? If not, will the Government be pleased to ask the Local Administration to make an enquiry into the subject in consultation with the leading men of the Province, and report as to whether or not it is a fact that forest-charges are a general complaint with the people, and that a further reduction in the present dues and rates will afford a much-needed relief?

The Hon'ble SIR ANTONY MACDONNELL replied :—

"In replying to the Hon'ble Member's questions, it is necessary to distinguish between the great agricultural class and the limited class of people who deal in the forest-produce which the non-agricultural classes require. In connexion with the agricultural class generally, I have to state that during 1891 and 1892 a careful enquiry was instituted throughout the Central Provinces into the question of the rates charged for grazing and extraction of forest-produce from Government forests, the object being to reduce the rates charged for grazing and for the forest-produce required for agricultural and domestic uses. The results of that enquiry are embodied in a Resolution dated 5th January, 1893, which was published by the Chief Commissioner, Central Provinces, for general information. The Resolution effects substantial reductions in the rates previously paid, besides conferring on the people important privileges in connexion with the use of Government forests in the

Central Provinces. The charge for grazing a buffalo now varies, according to the abundance or scarcity of fodder, from a quarter to half an anna per mensem, the charge for cows or oxen being one-half these rates. The charge for dead firewood, thorns for fencing fields, cut grass for fodder, and leaves for manure is for a head-load of sixty pounds weight only one pie, the smallest coin in the realm, or three annas per ton.

"These rates have been very favourably received by the people, and it is altogether premature to say that they press hard upon them, or that further reductions are at present called for. But the Government of India recognize the desirability of cheapening as much as possible the price of all descriptions of forest-produce necessary for the agricultural and domestic uses of the population, and will commend the subject to the continued attention of the Central Provinces Administration.

"As regards the more limited class of people who deal for profit in the forest-produce in question, I have to say that they mostly supply the wants of towns. It is believed that the rates in force allow these people to make a substantial profit on their transactions. This point, however, will also be commended to the Chief Commissioner's attention."

INDIAN PORTS ACT, 1889, AMENDMENT BILL.

The Hon'ble MR. WESTLAND moved that the Report of the Select Committee on the Bill to amend the Indian Ports Act, 1889, be taken into consideration. He said:—

"I ought to mention, in connection with the discussion of this Bill in Select Committee, that certain definite proposals were put before us on the part of the Agents of the Steamer Companies for making more economical arrangements for the work which at present falls upon the Port-officer of the Balasore ports. We are hardly in a position to examine these suggestions in detail; but, on the other hand, even if it were possible to reduce the expenditure of the ports by the whole amount of the Port-officer's salary, still the remaining expenditure would absorb more than the whole revenue which the passing of the present Bill will enable the Government to levy.

"The Committee on this ground agreed to recommend the passing of the Bill, but on the understanding that the suggestions of the Agents of the Steamer Companies shall be fully investigated by the Government of Bengal, and that,

until they come to a conclusion upon them, the additional powers given by this Act will not be brought into operation. I have the authority of His Honour the Lieutenant-Governor for expressing his concurrence in this understanding, and the fact that the Government of Bengal has for so long a time consented to bear the burden of the deficit of these ports is sufficient evidence of their reluctance to impose any avoidable burdens upon the trade."

The Hon'ble MR. PLAYFAIR said :—

"My Lord, I have listened with much interest to the remarks which have fallen from the Hon'ble Member in charge of the Bill.

"Looking to the character and condition of the trade of Orissa, it appears to me that the only reason for raising the duties of the Balasore ports must be a financial one, and this can only be justified if it is found that the present scale of expenditure is necessary, and cannot be reduced, or cannot be met from Provincial funds. The opinion expressed and adhered to by the Bengal Chamber of Commerce has been that the proper course to follow would be to reduce the expenditure of the Balasore ports so as to bring it within the receipts, abolishing the appointment of a special Port-officer, and constituting the Joint Magistrate of Balasore *ex officio* Shipping Master for that port and the Customs and Salt Officer at Chandballi *ex officio* Shipping Master there. The Steamer Companies trading between Calcutta and Balasore ports endorse this opinion, and offer their assistance in carrying out the recommendation. Considering how backward the trade of Orissa is, and that since 1871 it has only increased to about 290,000 passengers both ways, and $1\frac{1}{8}$ crores of rupees value of goods, for a population of about $5\frac{3}{4}$ millions, it seems clear that the true policy is, if at all possible, to make the ports of the province free, to encourage trade to the utmost. After all, if their support were made a charge upon Provincial revenues, the amount to be provided would be very trifling. In making this remark I admit that, on the other hand, it may be said the additional dues provided for by this Bill would not in themselves crush out the trade with Orissa, but, as forming an addition to charges on goods entering an already overtaxed port such as Calcutta now is, they become of more special importance. I have to observe that the construction of canals on the Orissa coast and the opening of the Bengal-Nagpur Railway have already interfered with the sea traffic, and that in all probability the East Coast Railway when completed will further divert traffic from the Orissa ports and may even turn away a portion of the present trade of Orissa from the port of Calcutta. It will

be a satisfaction therefore if the Local Government will, before exercising the power conferred upon it by this Bill which is about to be passed into law, carefully consider the views and proposals expressed by the Chamber of Commerce and by the Steamer Companies engaged in this trade, and endeavour to reduce the cost of expenditure rather than meet the present scale of expenditure by the increase of port-dues."

The Motion was put and agreed to.

The Hon'ble MR. WESTLAND also moved that the Bill be passed.

The Motion was put and agreed to.

CODE OF CRIMINAL PROCEDURE, 1882, AND INDIAN PENAL CODE AMENDMENT BILL.

The Hon'ble DR. LETHBRIDGE presented the Report of the Select Committee on the Bill to amend the Code of Criminal Procedure, 1882, and the Indian Penal Code. He said that he would reserve the few remarks which he had to offer on the Bill till the time when the Report was taken into consideration.

CODE OF CRIMINAL PROCEDURE, 1882, AMENDMENT BILL.

The Hon'ble SIR ANTONY MACDONNELL moved for leave to introduce a Bill to amend the Code of Criminal Procedure, 1882. He said:—

"The Bill which I wish to bring under the notice of the Council is a very short one of two sections, one of which expands section 44 and the other section 45 of the existing law. I shall first offer a few observations, for the consideration of the Council, on the expansion of section 44. The amendment in this section which I have to propose is the addition of the offences of unlawful assembly and rioting to those crimes which must be reported to the Magistrate under the law as it at present stands. At present the only section of the public who are under an obligation to report the commission of, or intention to commit, the offence of unlawful assembly or rioting are the owner or occupier of the land or any person claiming an interest in the land on which such unlawful assembly is held, or such riot is committed. This obligation

as imposed on the owner of land emerges from the terms of section 154 of the Indian Penal Code. But it is, I submit, highly desirable that the obligation should rest on the public generally having means of information. My Lord, it is the obvious duty of every citizen to contribute, so far as his knowledge and ability permit, towards the maintenance of law and order in his neighbourhood. But daily experience shews that people will not go out of their way to meddle in matters which do not concern them. If the Government wishes to enlist any particular class of the people in the active support of the law, it must prescribe for their guidance what they have to do. We know well—it is a matter of common experience—that riots involving loss of life and property frequently occur which are preventible, and could easily be prevented if the village-officers gave timely warning to the Magistrate or the police of the threatened disturbance. The Criminal Procedure Code as it now stands places them under no legal obligation to give the notice, and, consequently, very frequently no notice is given. The riot takes place, there is perhaps loss of life and property, bad blood is engendered, and the peace of the locality is disturbed. All this may often be avoided by a little timely warning to the authorities. There can, my Lord, be but little question of the propriety of taking precautions in matters like these, and of requiring from those having local knowledge such timely information as will enable the authorities to take precautions. The amendment which I propose adds a substantial and, as it seems to me, a reasonable re-enforcement of the inadequate means which we now possess of getting that information.

"I pass on to section 45. As this section at present stands, 'every village-headman, village-watchman, village-police-officer, owner or occupier of land, and every officer employed in the collection of revenue or rent of land on the part of Government or the Court of Wards, shall forthwith communicate to the nearest Magistrate or officer in charge of the nearest police-station any information which he may obtain respecting * * * the commission of, or intention to commit, any non-bailable offence in or near such village.' The obligation to report some other matters touching the maintenance of law and order in the village is also laid by the section on the persons I have enumerated: but for my present purpose I am only concerned with clause (*c*) of the section, which imposes, as I have said, the obligation to report the commission of, or intention to commit, any *non*-bailable offence to the nearest Magistrate or police-officer. The first amendment of this section which I have to propose is the addition of the village-accountant to the list of village-officers who are bound to report the commission of, or the intention to commit, a non-bailable offence. The official,

or duly enrolled and registered village-accountant, with whom my amendment is concerned, my Lord, is a public servant, whose duties bring him into intimate relations with all parties and classes in the village, and whose means of knowing what is going on in the village are extensive and minute. It seems to me to be obviously desirable that the Government should have a right to require from him such information as he can furnish touching the maintenance of law and order in the village: and I do not anticipate that on this point there will be divergence of opinion.

"The next amendment to section 45 which I have to propose is the inclusion of the offences of unlawful assembly and rioting among those of which village-officers and landholders are specifically bound to give notice. This amendment is in a measure a repetition of that proposed to section 44: and it might perhaps be thought that the end in view is sufficiently secured by the latter amendment. But it has been thought well to define, with special exactitude, the duties of the village-officers in regard to breaches or threatened breaches of the peace; and there is, so far as I can see, no objection to, but an advantage in, this being done. The arguments in support of both amendments are practically the same, though, in the case of section 45, they may be regarded as possessing a special cogency, inasmuch as the village-officers and landowners naturally know more of what goes on in their village than outsiders can.

"Another amendment of this section to which I desire to call the attention of the Council lays on the persons enumerated in the section the obligation of reporting to the Magistrate 'any matter touching the maintenance of the public peace or the prevention of crime or the safety of the property or persons of the inhabitants which the District Magistrate, by general or special order, made with the previous sanction of the Local Government, has directed him to communicate information.' Respecting this amendment I would first observe that it is concerned not with the general or even with the local public, but with village-officials and with the proprietors of the village-lands. From the very nature of the case we are entitled to demand from these strictly limited classes more extensive and minute information regarding the maintenance of order in the village than we should be justified in asking from the general public. My Lord, the first duty of an organized Government is to preserve the peace: but it is impossible to preserve the peace, amid jarring elements and conflicting interests, unless we have timely warning of impending danger. From what quarter or in what way difficulties may arise it is frequently impossible to

foresee ; and in the interests of order it is imperative that the District Magistrate, the officer responsible for maintaining the public tranquillity, be authorized to require from the village-officials from time to time such information of the character I have stated as will enable him to discharge his duty in this connexion to the Government and to the public. As a matter of fact, the District Magistrate does now, in various parts of the country, require from the village-officials such information as my amendment contemplates : but he does so under inadequate legal sanctions. We require a stronger legal sanction for our orders than we now possess : and that it is hoped to obtain through this amendment. In regard to the owners or occupiers of the lands, the obligation to supply information touching the maintenance of the peace has existed from the earliest times, and lies indeed at the very root of the conception of the zamindari tenure of land in this country. No class of persons should be more interested in the maintenance of peaceful and orderly government than the proprietors of the soil, and I should desiderate from their good sense as well as from their self-interest a hearty concurrence in the amendment which I submit to the judgment of the Council in this matter.

"I may add that the Bill takes power to appoint a village-headman for the purposes of the section if a headman has not been appointed under any other law."

The Motion was put and agreed to.

The Hon'ble SIR ANTONY MACDONNELL also introduced the Bill.

The Hon'ble SIR ANTONY MACDONNELL also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 22nd February, 1894.

S. HARVEY JAMES,
Secretary to the Government of India,
Legislative Department.

CALCUTTA ;
The 19th February, 1894.

Government of India Central Printing Office.—No. 438 L D.—20-2-94.—320.—E. H.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Government House on Thursday, the 22nd February, 1894.

PRESENT:

His Excellency the Viceroy and Governor General of India, P.C., LL.D., G.M.S.I., G.M.I.E., *presiding*.

His Honour the Lieutenant-Governor of Bengal, K.C.S.I.

His Excellency the Commander-in-Chief, K.C.B., G.C.I.E., V.C.

The Hon'ble Sir A. E. Miller, KT., Q.C.

The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.

The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.

The Hon'ble J. Westland, C.S.I.

The Hon'ble Sir A. P. MacDonnell, K.C.S.I.

The Hon'ble Dr. Rashbehary Ghose.

The Hon'ble C. C. Stevens.

The Hon'ble A. S. Lethbridge, M.D., C.S.I.

The Hon'ble H. F. Clogstoun, C.S.I.

The Hon'ble W. Lee-Warner, C.S.I.

The Hon'ble P. Playfair.

The Hon'ble Mahárájá Partab Narayan Singh of Ajudhiá.

QUESTION AND ANSWER.

The Hon'ble MAHÁRÁJÁ PARTAB NARAYAN SINGH OF AJUDHIÁ asked:—

Whether the Government will allow grade promotions in the subordinate judicial and executive branches of the Provincial Service in the event of temporary vacancies, as is done in the case of certain services enumerated in Part II, Chapter VI, section 1, of the Civil Service Regulations.

The Hon'ble SIR ANTONY MACDONNELL replied:—

"The various services under the Government have different rates of pay and different rules as to grade promotions. The rates of pay in the services to which the Hon'ble Member refers are affected by limitations as to grade

promotions; and the Government of India cannot consider the question of removing the limitations without reopening the whole question of rates of pay. This the Government, as at present advised, see no reason to do.

"I may mention, with reference to the Provincial Executive Service of the Province from which the Hon'ble Member comes, that there has been within the last few months a revision of grading to the advantage of the members of that service."

CODE OF CIVIL PROCEDURE AND INDIAN LIMITATION ACT, 1877, AMENDMENT BILL.

The Hon'ble DR. RASHBEHARY GHOSE presented the Report of the Select Committee on the Bill to amend the Code of Civil Procedure and the Indian Limitation Act, 1877. He said:—"No substantial alterations have been made by the members of the Select Committee in the Bill as it was originally introduced. The nature of the comparatively slight amendments which have been made is explained in the Report of the Committee, and I have nothing to add to it. I will only mention that the Hon'ble Mr. Lee-Warner, one of the members of the Select Committee, has appended to the Report a note, which I may venture to call a note of discord, but happily not of a very harsh or dissonant nature. It would be premature to discuss that note at the present stage. Any recommendations which the Hon'ble Member may think it proper to make will doubtless be discussed in due course when he brings them forward in Council."

The Hon'ble MR. LEE-WARNER said:—"With reference to the remark made by the Hon'ble Dr. Rashbehary Ghose as to the 'note of discord' which I have felt it my duty to strike in connexion with this Bill, I would ask permission to offer a few observations, and to put a question to the Hon'ble Mover before he proceeds to ask this Council to consider this Bill. That question is, whether it is not wiser to consult the Local Governments on the question whether this Bill will best meet the great evil which it is intended to cure. On the 8th of March last the Hon'ble Member with his usual fairness and fullness described the position thus: 'It is a well-known fact that immoveable property put up for sale in execution of a decree seldom fetches an adequate price.' To cure that great evil we have this Bill, and the Select Committee refer to the opinions of the Local Governments upon it in these terms."

22ND FEBRUARY, 1894.] [*The President; Mr. Lee-Warner; Sir Alexander Miller; Dr. Lethbridge.*]

His Excellency THE PRESIDENT said:—"I beg to call the Hon'ble Member's attention to the fact that the Rules for the Conduct of Business lay down that the consideration of the Report of the Bill should be taken after it is in the hands of the Council."

The Hon'ble MR. LEE-WARNER said:—"I would ask then, my Lord, whether I may put the question under Chapter II, rule 10, of the Council Rules."

His Excellency THE PRESIDENT said.—"I do not think that it would be in order to discuss that question at the present stage. If necessary, it could be put forward as an amendment and discussed when the Report is taken into consideration by the Council."

The Hon'ble SIR ALEXANDER MILLER said:—"The most convenient way, as His Excellency suggests, would probably be that when the Hon'ble Dr. Rashbehary Ghose proposes to take the Bill into consideration the Hon'ble Mr. Lee-Warner should move, by way of amendment to that motion, that the Bill should be referred back to Local Governments."

The Hon'ble MR. LEE-WARNER said:—"I shall readily adopt the course indicated by Your Lordship. My only fear was that I might at that stage be obliged, as the Hon'ble Dr. Rashbehary Ghose hinted, to move a specific amendment to the Bill itself, which without the opinions of the several Local Governments I am unable to do."

CODE OF CRIMINAL PROCEDURE, 1882, AND INDIAN PENAL CODE AMENDMENT BILL.

The Hon'ble DR. LETHBRIDGE moved that the Bill to amend the Code of Criminal Procedure, 1882, and the Indian Penal Code be taken into consideration. He said:—

"My hon'ble friend Sir Philip Hutchins, in asking for leave to introduce this Bill, pointed out that it was necessary to strengthen the hands of the British authorities in dealing with dacoits who, having committed dacoity in Native States, were sheltered in British territory with the connivance of British subjects.

"It was proposed to effect this object by extending the meaning of the word 'offence' in certain sections of the Penal and Procedure Codes, so as to

include certain acts committed outside British India, and to declare that they shall be deemed to be offences equally with similar acts committed in British India for the purpose of bringing to justice persons who are guilty of criminal acts or omissions in relation to them. It was further proposed to explain more exactly what is meant by the term 'harbouring,' and to provide, by the addition of a new section to the Indian Penal Code, for the punishment of any British subject who, knowing or having reason to believe that certain persons are about to commit dacoity or have recently committed dacoity, harbours them. The new section further provides that it is immaterial whether the dacoity is intended to be committed or has been committed within or without British India.

"The Bill prepared on these lines and introduced in August last has been carefully examined by Local Governments and by a large number of selected officers to whom it has been referred for opinion. Ample time has also been given for its full consideration by the public. I am glad to find from the replies and opinions which have been received that it has met with a favourable reception, and that the Select Committee has had placed before it many important and valuable suggestions for improving the drafting of the Bill and increasing its usefulness.

"At the last meeting of this Council I had the honour to present the Report of the Select Committee on the Bill and to lay on the table the draft Bill which the Committee now submits for the acceptance of Your Lordship's Council. It only remains for me to explain as briefly as I can the leading features of the measure as amended in Select Committee. The Bill, as it was originally drafted, was framed so as to deal only with the offences of murder and dacoity, the latter including such acts as making preparation for or attempting to commit dacoity. But the Hon'ble Member who introduced it explained that, if after consideration it was decided to retain the clause added in 1886 to section 216, it would be necessary to extend the meaning of the term 'offence' in the other sections so as to make it cover some of the more heinous offences. When the opinions of the Local Governments were received, it was found that many of the officers consulted were in favour of extending the provisions of the Bill to a larger number of the more serious offences, including such crimes as poisoning for the sake of gain, kidnapping, cattle-lifting and counterfeiting coin, etc. The Select Committee, after considering these opinions, accepted the suggestion that the provisions of the Bill should be enlarged, but, on examin-

ing the enlarged list of crimes that it was proposed to include in the Bill, it was found impossible to add to the existing list of offences already enumerated in section 44 of the Code of Criminal Procedure without amending the substantive section itself; and this the Committee considered was outside the scope of the present measure. Let me explain this point more clearly: under section 44 of the Code of Criminal Procedure as it stands at present, every person in British India is bound to give information of the commission of, or of the intention to commit, by other persons in British India certain offences which are specified in that section. If we extend this obligation to offences committed or about to be committed out of British India, it is hardly reasonable to require that British subjects shall give information in regard to a number of offences in Native States which, if they had been committed in British India, they would not be bound to report. Although, therefore, there are many serious offences which we should have liked to have included in this measure, our power to extend the provisions of the Bill is limited to the crimes already specified in section 44 of the Procedure Code. In making our selection from the offences there enumerated, we have for obvious reasons omitted to include all the offences against the State provided for in sections 121 to 130, Indian Penal Code, and section 303, which relates to murder committed by a life-convict, and section 456, Indian Penal Code, which refers to the simplest form of lurking house-trespass and house-breaking by night committed by the ordinary thief. With these exceptions, we have incorporated in sections 1 and 2 of the present Bill, which are intended to amend sections 44 and 45 of the Code of Criminal Procedure, all the offences already enumerated in the former section. Correlative to these sections of the Procedure Code, which it is intended to amend, are sections 176, 177, 201, 202 and 203 of the Penal Code, which provide for the punishment of persons who in breach of this obligation to report either omit to give information or substitute false or misleading information, or cause evidence to disappear in order to screen the offender. In amending these sections by sections 5 and 6 of this Bill, the offences enumerated in sections 1 and 2 are, as a matter of course, repeated.

"There are two sections, 212 and 216, of the Indian Penal Code which are aimed at harbourers. In regard to section 216, which relates to the harbouring of escaped prisoners and offenders ordered to be arrested, it was found necessary in 1886 to make it penal to harbour persons who had been convicted of, or ordered to be arrested for, offences in Foreign States. Act X of 1886, by which this important clause was added to section 216, gave the word 'offence' a very

wide signification, and provided for the punishment of persons who harboured those convicted of or charged with crimes which were covered by the list of offences mentioned in the law relating to extradition and the Fugitive Offenders Act. When this amendment to section 216 was made it would appear to have been overlooked that some amendment to section 212 was also necessary. In this present Bill, as originally drafted, it was proposed to cut down the clause framed in 1886 so as to include only murder and dacoities, and to have an amendment making this restricted application of the term 'offence' applicable also to section 212. This proposal has not been generally accepted, and it has been pointed out by Sir Dennis Fitzpatrick and others that there was no object to be gained by the restriction proposed in section 5 of the original Bill, nor was it necessary to make the term 'offence' here used correspond with its meaning as used in the other sections of the Bill. It has been represented that the list of crimes in respect of which it is made a penal offence to harbour a person who is known to be an offender who has escaped from custody either before or after conviction may well be a longer list than that of crimes which all classes of the community are bound under the law to report. The Select Committee accepted this view of the subject and decided to omit all reference to section 216 of the Code of Criminal Procedure in the Bill now before the Council. In respect to the further suggestion made by many of the officers consulted, that a clause similar to that passed in Act X of 1886 amending section 216 should be added to section 212, the Select Committee was asked to consider whether there was not a substantial difference between section 212, which refers to harbourers of offenders not yet arrested or ordered to be arrested, and section 216, which refers to harbourers of escaped prisoners or offenders specifically ordered to be arrested, and, if there was a substantial difference, whether it would not be well to limit the term 'offence' in the amending clause of section 212 to the more heinous offences. The Committee considered that there was a difference, and we have endeavoured to give effect to this suggestion and to the desire for uniformity by enumerating in the amending section 7 of this Bill which is to be added to section 212 only those offences which have been entered in all the other sections. In my opinion all the power that it was necessary for us to obtain to provide for the peace and welfare of the Native States on the borders of British districts has been obtained by this amendment, and we have avoided the danger of including a long list of offences which, to say the least of it, might have given rise to differences of opinion between the officers of British districts and the Durbars of Native States.

"It has been pointed out by the Punjab Government, and some of the officers consulted by it, that if it is intended to make prosecutions for harbouring more effective and to bring home the offence to the person charged with harbouring, the power now possessed by the British police under section 54 of the Code of Criminal Procedure of arresting a criminal without a warrant in certain cases should be extended to persons who are charged with the commission in Native States of cognizable and extraditable offences. This suggestion has been adopted and embodied in section 3 of the present Bill.

"In section 8 will be found redrafted the section (216A) which it is proposed to add to the Indian Penal Code for the punishment of persons harbouring dacoits and robbers who have assembled together to commit dacoity or robbery but have not yet carried out their purpose. It has been found necessary to add the crime of robbery to this section to bring it more into accordance with the rest of the provisions of this Bill.

"To make this new section correspond with existing sections 212 and 216 and to comply with what is a fixed principle of English law that the wife who harbours her husband is not in these cases a free agent, exceptions have been made in favour of the husband or wife of the offender.

"Since section 216A is a new section of the Indian Penal Code, the law requires that it shall be inserted in Schedule II of the Code of Criminal Procedure. This has been provided for in section 4 of the Bill.

"It has frequently been represented by officers who have had to administer the law that the word 'harbouring' should be more clearly defined. This the Select Committee has endeavoured to do in the proposed clause 216B."

The Motion was put and agreed to.

The Hon'ble DR. LETHBRIDGE also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

REPEALING AND AMENDING BILL.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill to repeal certain obsolete enactments and to amend certain other enactments be taken into consideration. He said:—"This is, practically, a purely formal Bill, and it has not therefore been thought necessary to send it to a Select Committee.

[*Sir Alexander Miller; Sir Antony MacDonnell.*] [22ND FEB., 1894.]

"The Bill has been settled with the consent of the Bombay Government, and its only object is to clear the way for publishing a new edition of the Bombay Code, in order that these enactments may not have to be reproduced in that Code and re-published."

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER also moved that in Part I of the first schedule annexed to the Bill the entry relating to Bombay Regulation II of 1827 be omitted. He said:—"Practically the Regulation is obsolete, but it has been pointed out by the Bombay Government that it has been incorporated in the clause—section 56—of a later Regulation, and that therefore it would be inconvenient that it should be repealed—because it would be necessary by other legislation to provide for the matters for which section 56 now provides. For this reason I now ask, at the request of the Bombay Government, that the entry in question should be omitted."

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER also moved that the Bill, as amended, be passed. He said:—"I may call the attention of Hon'ble Members to the fact that in the schedule of the Bill there is a column—No. 5—explaining the various proposals and the reasons why certain provisions are included in the Bill; but that is no part of the Bill itself, and therefore in passing the Bill all these remarks will disappear."

The Motion was put and agreed to.

CODE OF CRIMINAL PROCEDURE, 1882, AMENDMENT BILL.

The Hon'ble SIR ANTONY MACDONNELL moved that the Bill to amend the Code of Criminal Procedure, 1882, be referred to a Select Committee consisting of the Hon'ble Sir Alexander Miller, the Hon'ble Dr. Rashbehary Ghose, the Hon'ble Sir Griffith Evans, the Hon'ble Mr. Stevens and the Mover, with instructions to report within one month.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 1st March, 1894.

S. HARVEY JAMES,
Secretary to the Govt. of India,
Legislative Department.

CALCUTTA;
The 28th February, 1894.

Government of India Central Printing Office.—No. 465 L. D.—2-3-94.—320.—E. H.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Government House on Thursday, the 1st March, 1894.

PRESENT:

His Excellency the Viceroy and Governor General of India, P.C., LL.D., G.M.S.I., G.M.I.E., *presiding.*
His Honour the Lieutenant-Governor of Bengal, K.C.S.I.
His Excellency the Commander-in-Chief, K.C.B., G.C.I.E., V.C.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble J. Westland, C.S.I.
The Hon'ble Sir A. P. MacDonnell, K.C.S.I.
The Hon'ble Dr. Rashbehary Ghose.
The Hon'ble C. C. Stevens.
The Hon'ble A. S. Lethbridge, M.D., C.S.I.
The Hon'ble Gangadhar Rao Madhav Chitnavis.
The Hon'ble H. F. Clogstoun, C.S.I.
The Hon'ble W. Lee-Warner, C.S.I.
The Hon'ble P. Playfair.
The Hon'ble Mahárájá Partab Narayan Singh of Ajudhiá.

CODE OF CIVIL PROCEDURE AND INDIAN LIMITATION ACT, 1877, AMENDMENT BILL.

The Hon'ble DR. RASHBEHARY GHOSE moved that the Report of the Select Committee on the Bill to amend the Code of Civil Procedure and the Indian Limitation Act, 1877, be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. LEE-WARNER moved that the Bill be republished; that the proposals made by the Government of Bombay and the Chief Commissioner of the Central Provinces be referred to the other Governments for consideration, and the Lieutenant-Governor of the North-Western Provinces be invited to

state whether those proposals or any other suggestions he thinks fit to make will remove his objections to the limited applicability of the present Bill; and that some account of the working of section 174 of the Bengal Tenancy Act be furnished to the several Governments and Administrations consulted. He said:—

"My Lord, I hope that I shall be able to explain briefly to the satisfaction of the Council the position which I have been compelled to take in regard to this Bill. Recognising fully the credit due to the Hon'ble Mover for inviting attention to the evil, I also recognize the fact that the opinions of the Local Governments are entitled to careful consideration; and if a Select Committee dismisses them without discussion, and puts upon them the strained construction 'the Bill has been received with much favour,' it is a duty which I owe to them as well as to this higher Court of Appeal to claim for them here the attention which they deserve. The propositions which underlie my amendment are—first, that there is a grave defect in the judicial system created by this Council in 1882; secondly, that although no practical man will aim at a counsel of perfection or be content with nothing short of the best remedy, yet there is an ample choice offered to us of adequate remedies, whilst the Bill submitted to us is considered by most of the Governments consulted to be inadequate; thirdly, that the necessity for altering another section in the same chapter of the Civil Procedure Code suggests the expediency of giving the Government of India and the Local Governments an opportunity of reconsidering this Bill by the light of the criticisms offered and with the aid of some information regarding the operation of the Bengal Tenancy Act from which this Bill professes to be copied.

"Of the gravity of the existing evil I need not say much. The Hon'ble Mover in his Statement of Objects and Reasons confessed that 'it is a well-known fact that immovable property put up for sale in execution of a decree seldom fetches an adequate price.' I need not add a feather weight to that grave indictment. But its gravity justifies me in claiming for the remedies proposed by the Local Governments something more than that they should be bowed out of the room by the Select Committee, merely because their adoption would go beyond the present Bill. We are told that the Bill has been received with much favour, and, when I got over my surprise at reading that prominent remark in the report of the Committee, I at first doubted whether I could add my signature to it. But I reflected that this specious argument might

be used. The Bill is an attempt to remedy a grave defect. The Local Governments receive with much favour such an attempt. Therefore they receive the Bill with much favour. Happily, the Council can judge for itself what their opinions are on the provisions of this Bill. The Government of Bombay writes that it 'approves of the object which is sought to be attained by the proposed legislation,' but it expresses 'a doubt whether the provisions of the Bill will, unless amplified, often be effective.' It then proposes an addition of four words to section 311 of the Code suggested by Mr. Justice Fulton, an officer whose experience both in the revenue and in the judicial departments entitles his opinion to careful consideration. That suggestion is one of our proposed remedies.

"The Chief Commissioner of the Central Provinces has 'very considerable doubt' about the Bill, and he proposes 'an extension to the Civil Courts of the powers given to the Collector by section 325 of the Civil Procedure Code.' This again is a second remedy proposed, and I must interrupt my review of the opinions offered on this Bill by quoting a sentence from the report of the Commission on the Dekkhan Agriculturists' Relief Act, page 53:—'The Commission consider that the law regarding the exemption of immovable property from attachment and sale in execution of money decrees should now be extended to agriculturists in other parts of India.' That is a third solution, and, if we should borrow from the experience of any law of local application, why should we have recourse to the Bengal Tenancy Act, about which we know nothing certain, and the provisions of which are not even mentioned by the Commission, rather than from Act XVII, 1879, of which the operations have been most carefully investigated?

"The Government of the North-Western Provinces approves only 'of the purport of the Bill, though it will probably have but a limited application in these Provinces.' Looking at what the distinguished and experienced officer who fills the post of Lieutenant-Governor of the North-Western Provinces has written on other occasions, I should fancy that he would advocate the extension to all India of section 194, clause (*g*), of North-Western Provinces Act XIX, 1873, and that he would exclude certain rights in the soil from liability to be sold in execution of a decree. That would be a fourth suggestion; but we want further light as to the views of Sir Charles Crosthwaite.

"The Chief Commissioner of Burma can say no more in favour of the Bill than that 'on the whole the results of the proposed measures are likely to be

beneficial.' From the heights of Baluchistan a refreshing breeze of praise is blown which entitles the Select Committee to rely upon the Governor General's Agent there as endorsing their report; but the air in Madras is laden with discord, and even in Bengal the Hon'ble the Judges lay their finger on a weak spot in the remedy proposed—'in the great majority of cases under that Act the properties are of small value, and the amounts of compensation must be but inconsiderable.' The Judges of the Chief Court of the Punjab are with one exception silent or 'see no objections to the Bill.' I submit, then, that the remark made by the Select Committee—'the Bill has been received with much favour'—is true only in a highly specialised sense, and takes altogether too sanguine a view of the reports received.

"I shall be told that it is open to me to propose amendments to the Bill and that I ought to state my own opinion. I think that the Bill may be described as giving to a solvent and apathetic judgment-debtor a *locus pœnitentiæ*, and as providing no remedy for any other class of people who now suffer from the enforced sale of their properties at inadequate prices. In fact, this Bill helps the very small section of sufferers who deserve least at the hands of this Council. No doubt I might move the amendment proposed by the Government of Bombay or by Mr. Woodburn, but I submit that the case is not ripe for legislation. I should be guilty of the very charge which I bring against the Committee if I were to choose from the remedies before us without further reference to the Local Governments which at present are ignorant of the suggestions made to us. The Empire looks to the Supreme Government to take the initiative and direction in the case of amendments or additions to the great Codes of Procedure; and the case seems to me one in which further reference should be made to the Local Governments. Meanwhile I apprehend nothing but injury to the cause in passing this imperfect Bill which tinkers with our Civil Code and provides no relief to the judgment-debtor, who cannot pay off his debt, or to any one except that particular debtor, who has no claim whatever on the Legislature since he would not pay when he could. If this Bill is hurried through and the Local Governments press for legislation on the main point, the answer will be given—'Give the new remedy a fair trial and then come up again.' This stop gap will thus retard the provisions of an adequate remedy. It seems to me to be the duty of this Council, having undertaken to deal with a specific evil which it has formally admitted, to proceed with its task to the best of its ability, and not rest content with a remedy which will 'do no harm.'

"There are, moreover, these two special reasons for delay. The Government of India has been advised by the Commission which reported to it in June, 1892, to amend the Civil Procedure Code in the very chapter tinkered up by this Bill. The consideration of that report can proceed with the reconsideration of this Bill. Meanwhile Bengal, in which Province 50,000 applications for sale of immovable property are presented annually against some 35,000 for the rest of India, has its Bengal Tenancy Act in operation to cover a large proportion of these cases. Its own Government has not, I believe, pressed for the extension of the Act, and it might reasonably object to the alterations in that Act which this Bill introduces, since in the same province you will have two remedies working side by side in the same area with some differences between them. My second reason is supplied by the paper of business before us. The Select Committee in their sanguine temperament write—'We have suggested little alteration beyond making it as clear as possible what the amount of the deposit must be.' The ink is hardly dry on the Report, when the Hon'ble Mover comes to this Council to make the point 'clearer' still. I am the more able to dwell upon this fact because my own amendment, based on the opinion of the Government Advocate of the Punjab,—to require the Courts, without prejudice to proceedings for the ultimate recovery of any balance, to certify the sum which must be deposited,—was not approved of by my colleagues. I submit that the difficulties of the Hon'ble Mover and of the Select Committee furnish further justification for my motion, which I trust is now beginning to appear less obstructive than it first seemed to the Hon'ble Mover.

"In conclusion, I have to deal with that part of my motion which asks for further information regarding the operation of the section of the Bengal Act which we are asked to adopt. The Commissioner of Fyzabad writes: 'As to the successful working of the provision in Bengal I know nothing, and the reference to such successful working in the Objects and Reasons attached to the Bill is not based on any given statistics.' I have exhausted every published report of the Bengal Government on which I could lay hands, and found nothing. I have anxiously listened to the Hon'ble Mover to see if he could tell us in what proportion of sales under the Bengal Tenancy Act this remedy of deposit is utilised, but I have gained no light. In examining the Dekkhan Acts, the Government of India have required annual and special reports before they would apply the experience gained there to the general law; and, when we bear in mind that in every province of India there are local laws which variously affect the question, I think that the case for further consideration and inquiry gains force.

What we want to know is in how many cases the deposit is now paid in Bengal, whether it is ever paid where the value of the property sold is large, and whether there are any special features in the land-tenures or the procedure of the Courts here which would render the experience of Bengal no certain guide for the rest of India.

"My Lord, I regret that I have been compelled to occupy your time so long, but I trust that I have satisfied the Council that the evil demands a remedy which shall be worthy of this Council and satisfactory to a majority at least of the Provinces of India, and that I have only done my duty in calling attention to it."

The Hon'ble SIR ALEXANDER MILLER said:—"I hope this amendment will not be accepted. I entirely agree with one observation of the Hon'ble Mover, namely, that it is a great evil which the Bill is intended to meet, but that is an evil which is admitted, and the Bill applies to it a remedy which has been tried, and tried successfully, in more places than one. At present I need only concern myself with Bengal. The evil is this, that a man who is perfectly able to pay his debts, but who is neglectful, or who at any rate can raise the money to pay when he is properly pressed, does not think enough about it to raise the money in due time to pay off his decree, and it is not until he learns that his property has been sold for a song that he bestirs himself to find the money to redeem and save his property. It is a phase of human nature which is not peculiar to this country alone. I have seen it elsewhere very much upon the same lines, and I happen to know that, in a country which I know more about than India, the power to redeem land after it has been sold is a very valuable one, and one which saves thousands of tenants every year from being dispossessed of their farms when they have omitted to pay their debts, not because they could not raise the money, but because it did not occur to them to raise it until pressure was put upon them and their land was being being sold over their heads.

"This Bill provides a very simple remedy for these cases and these cases only. What it says is that where a man can manage to pay his debts he ought to be given a second opportunity of saving his property. Now, my hon'ble friend Mr. Lee-Warner objects that the Bill does not apply to a very large number of debtors who are not in a position to pay their debts; but it is not intended to apply to them. If, and when, the Legislature of this country is prepared to go into this large question of legislation for the purpose of enabling impecunious debtors to retain their land at the expense of their creditors, it will be

time to consider whether such legislation ought to be allowed or not; but this particular Bill is an absolutely uncontentious Bill which raises no question of that kind whatever, and which merely says that upon paying the whole amount due from him, *plus* a small premium as a sort of solatium to the purchaser, the man should be reinstated in his land. In fact, it makes part of the law of India that which for centuries was part of the law of the Court of Chancery in England in the case of sales under its decrees. The Dekkhan Agriculturists Act is a very different Act indeed, and, although I am prepared to admit that if passed and extended to all India it may possibly cure this evil amongst others, I think I may say without much presumption that the time is a long way off when we may expect to find that Act extended to the whole of India. I know that three years ago, just before I joined this Council, the Council as it was then constituted—none of the members of it are in India now—were unanimous against its extension one yard beyond the four districts to which it now applies, and it was only in deference to the wishes of two Local Governments and in order not to appear to act with too great precipitation that the matter was afterwards referred to a Commission, there being more or less a doubt I think even then—I wont undertake to say what the effect may be now—as to whether it was right to continue the Act in its present form even in the four districts to which it now applies. But I do not think that any one has suggested that a remedy so large and so contentious in its principle as that involved in the Dekkhan Agriculturists' Relief Act is to be extended to all India without an amount of consideration and examination which it certainly has not yet received.

"In the meantime are these debtors, more or fewer, to lose their lands while we are waiting to see whether we can extend the larger remedy to the whole of the country or not? Even if two or three or even five years hence it should be determined to extend the larger relief to India generally or to some part of it, that would not benefit the hundreds, perhaps thousands, of men who had lost their land for less than half its value in the interval; and I venture to think that the passing of this Act, which merely places all decrees on the same footing as to execution as that which has been found successful in respect of certain classes of decrees under the Bengal Tenancy Act, could not interfere with any extension of the Dekkhan Act which may hereafter be resolved upon, while the delay during the time that that great and controversial question is being discussed would continue for a very considerable period what is admitted to be a very grave evil.

"I must correct one of the remarks, which I am sure was made inadvertently, by the Hon'ble Mover in which he says that the Bill is being

again amended. The fact is that in its course through the Select Committee a certain expression—'warrant of sale'—was used, and we used it without referring to the Code of Civil Procedure. Every one understood the meaning of what was intended, but when we came to look at the Code we found that this document was not the proper one by which to determine the amount to be paid for redemption, and thereupon the learned author of the Bill gave notice of the amendment you see on the paper, merely to set right this clerical slip, but in no way altering the substance of the rémedy, and this amendment does no more than bring the provision strictly into the shape which the Select Committee intended to bring it. It is founded on the Bengal Tenancy Act and is not by any means a divergence from what the Select Committee had determined on at all. I hope therefore that, whatever the fate of the Dekkhan Act may be, this little Bill, which will save hundreds, perhaps thousands, of raiyats yearly from losing their lands for small debts, will be passed without the delay which is proposed by the Hon'ble Member."

The Hon'ble DR. RASHBEHARY GHOSE said:—"I am bound to observe that the motion of the Hon'ble Mr. Lee-Warner is, to say the least of it, of a somewhat unusual character. The Hon'ble Member has charged me with having at least three minds. I must confess that the Hon'ble Mover has, in this respect, the advantage over me, for he has not chosen to disclose his mind at all. Instead of suggesting any definite amendment the Hon'ble Member has only entered a dilatory plea and proposes 'that the Bill be republished; that the proposals made by the Government of Bombay and the Chief Commissioner of the Central Provinces be referred to the other Governments for consideration, and the Lieutenant-Governor of the North-Western Provinces be invited to state whether those proposals or any other suggestions he thinks fit to make will remove his objections to the limited applicability of the present Bill; and that some account of the working of section 174 of the Bengal Tenancy Act be furnished to the several Governments and Administrations consulted.'

"Now, the thoughts of Hon'ble Members may possibly be widened by this highly suggestive process, but the proposal involves potentialities of delay which are positively alarming, at least to the untutored unofficial mind. It is suggested, among a good many other things, that the North-Western Provinces Government should be invited to state whether the proposals made by the Bombay and Central Provinces Governments, or any other suggestions which the Lieutenant-Governor of the North-West thinks fit to make, will remove his objections to the

limited applicability of the present Bill. Now, suppose the Lieutenant-Governor should, in response to this suggestion, make some new proposal; some Member, if not the Hon'ble Mover himself, attracted by the novelty of the proposal, might in that case invite the Council to recommit the Bill, and consult other Local Governments on the proposed amendments formulated by the Lieutenant-Governor of the North-Western Provinces; and this process might go on for ever. It has been said that the delay which would be entailed by the acceptance of the Hon'ble Member's motion cannot possibly do much harm. But is the assertion well founded? In speaking of the Bill Sir John Edge says 'the sooner it becomes law the better.' Mr. Ferrar, the Commissioner of the Gorakhpur Division, says:—

'I think the amendment a most advisable one. It is notorious that, as the Statement of Objects and Reasons says, attached property seldom is sold at its proper value. From my own experience in hearing appeals from sales fraudulently brought about by decree-holders I can corroborate this. The amending Bill should become law as soon as possible, as every day all over the country numerous such sales are taking place and many judgment-debtors suffering great loss.'

"Last, though not least, the Calcutta High Court, in a letter dated the 29th August, 1891, addressed to the Bengal Government, extracts from which were read by His Honour the Lieutenant-Governor in Council last year, observe:—

"Whatever system may be adopted, and however carefully that system may be administered, there will occur cases in which properties are sold very much under their real value, and even on the assumption that in such instances nobody has been to blame except the judgment-debtor himself, who, therefore, suffers by reason of his own negligence, still it seems a frightful penalty to impose on a man for his neglect to pay a trifling sum that his estate should be sold for a fraction of its value and he himself reduced to ruin. Extremely hard cases of this nature have occurred under the existing law. The Judges recommend that a provision should be introduced, analogous to that contained in the Bengal Tenancy Act with regard to sales for arrears of rent, by which a debtor whose property has been sold should always be at liberty to come before the Court and pay the amount of the demand, or so much of it as remains unsatisfied, together with a penalty, or, if the whole of the demand has been satisfied, to pay simply the penalty and the amount of the purchase-money with interest, and thereupon to have the sale set aside. This the Judges would allow him to claim as of right without any inquiry into the circumstances."

"It will be noticed that the learned Judges merely assume that where properties are sold very much under their real value the judgment-debtor alone is

to blame. We all know, however, that the judgment-debtor is not in every instance to blame, as the prescribed notices are not always duly served, although he may not be in a position to prove the fact affirmatively in a great majority of cases.

"The usefulness of the enactment on which this measure is admittedly based has also been questioned, and it has been suggested by the Hon'ble Mover that some account—by which I suppose is meant statistics—of the working of section 174 of the Bengal Tenancy Act should be furnished to the several Governments and Administrations, including, I presume, the Bengal Government, for their enlightenment. Now, we have abundant evidence furnished in the papers as to the working of section 174 of the Bengal Tenancy Act. We have the opinion of the learned Judges of the Calcutta High Court, who approve of the provisions of this Bill, and only suggest a comparatively slight modification with which I need not deal here. We have also the opinions of various District and Subordinate Judges who have been consulted by the Bengal Government, and who, I presume, are thoroughly familiar with the operation of section 174 of the Bengal Tenancy Act, and figures and statistics too have been supplied by the Judge of Krishnagar, Mr. Handley, for the delectation of those who revel in them. Mr. Badcock, District Judge of Bhagalpur, says:—

'I consider the proposed amendments in the Civil Procedure Code and Indian Limitation Act are desirable, and will tend to remedy the losses suffered by judgment-debtors owing to their property being sold at inadequate prices.'

"Mr. Seal, a Judge of very great experience and thoroughly familiar with the wants of his countrymen, in Bengal at any rate, says:—

'I approve the principle of the Bill. About two or three years ago, in my Civil Administration Report for the district of Bankura, I had suggested the propriety of legislating on the line of this Bill.'

"Mr. Pratt, District Judge of Midnapore, says:—

'There is quite a consensus of opinion of judicial officers and the local Bar that the proposed amendment is likely to be beneficial, especially to honest debtors. The provision in section 174 of the Bengal Tenancy Act has been found to work well, and it is confidently anticipated that, if the principle be extended to all sales of immovable property, the parties concerned will be benefited. The decree-holder, unless he be a fraudulent one, cannot suffer, but will often be a gainer. Many judgment-debtors will resort to this expedient rather than to the risky and often fallacious remedy provided by section 311 of the Code. Judicial officers will also be saved no small amount of time and trouble.'

"Mr. Pratt then goes on to point out a defect in section 174, which has been discovered in its practical working and which it is now proposed to remedy. He says:—

'It will be a great boon to tenants having more than one landlord in an undivided estate to have the one month's time for deposit extended to them by the proposed law. The purchasers in eighty per cent. of such sales in this district are the landlords themselves, nobody else outside the village where the holding is situated being anxious to bid.'

"These observations, I may mention in passing, refer to the decisions on section 174 of the Bengal Act which have limited the operation of the section to cases in which the holding is sold at the instance of all the landlords and not merely of some of them, where, as is very frequently the case in this country, the estate is owned by two or more persons jointly. The construction put upon the law by the High Court may be quite correct, but it has undonbtedly robbed the section of more than half its usefulness. Mr. Handley observes:—

'I think the provision a good one. It cannot hurt the auction-purchaser, whose title is not confirmed till after a delay of sixty days. On that day either the sale is confirmed, or he gets his money back with interest, and I would extend the period of limitation to sixty days.'

"Mr. Cameron, another District Judge, also approves of the provisions of the Bill, and of the way in which section 174 of the Bengal Tenancy Act has worked.

"I think it unnecessary to trouble the Council with further quotations, and will only observe that, with the somewhat dubious exception of the Chief Commissioner for the Central Provinces, all the other Administrations have approved of the measure, though the Bombay Government propcses the addition mentioned by the Hon'ble Member, while the North-Western Provinces Administration seems to think that it would have only a limited application in those Provinces. The Hon'ble Mover, not content with relying upon these opinions, has referred us to the recommendations of the Dekkhan Commission, composed, we are told, of some of the most distinguished men in the country. The Hon'ble Member has also been good enough to tell us 'in something like a prophetic strain' that any suggestion that may be made by the Lieutenant-Governor of the North-Western Provinces if his opinion is invited would not differ materially from the proposals formulated in the Dekkhan report. The Hon'ble the Law Member has discussed these last proposals, and I can only add that the remedies which have been suggested are of a somewhat drastic character and would give rise to almost endless controversy. I

may also be permitted to doubt whether the proposal of Mr. Justice Fulton, which has found favour with the Bombay Government, would not be classed by many persons as 'well-meant ill-doing.' The Hon'ble the Law Member has pointed out how the right of redemption is valued by debtors in a country which the Hon'ble Member knows very intimately, and I may mention that a similar privilege is allowed in some of the American States. I am not, however, aware of any system of law in which an auction-sale by a Court of Justice is liable to be set aside merely on the ground of inadequacy of price. In England the Court of Chancery used to reopen the biddings whenever before the sale was confirmed a larger price was offered for the property. The practice was condemned by successive Lord Chancellors as having a deterrent effect on intending purchasers and thus reducing the price. Few persons, it was pointed out, would care to bid when the title to the property rested upon such an uncertain basis. The evil was found to be of such magnitude that the Legislature was obliged to intervene and to sweep away this injurious practice. And here I confess I cannot congratulate the Hon'ble Member on the felicitousness of his reference to the opinions of some gentlemen living in the arid plains of 'discord laden' Madras who are opposed to the Bill under discussion. If the grounds upon which the Chief Justice of the Madras High Court and Mr. Justice Muttusami Aiyar object to the present measure are examined, Hon'ble Members will find that their criticisms would apply with far greater force to any comprehensive measure of the kind shadowed forth by the Hon'ble Mr. Lee-Warner in his speech. I need hardly point out that Mr. Justice Fulton's proposal goes far beyond the old English Chancery practice, as it would entitle the Court to set aside a sale whenever it happens to think that the price offered for the property was seriously inadequate, a question which must always be one of considerable difficulty.

"The other proposal contained in the papers is that made by the Chief Commissioner for the Central Provinces. Mr. Woodburn, however, speaks in rather uncertain accents. In the letter before us it is stated:—

'The Officiating Chief Commissioner defers to the practical experience and opinion of the Judicial Commissioner, but he has very considerable doubts as to the expediency of the proposed amendments. Judgment-debtors in the country at large are quite aware of the inadequacy of the prices fetched at auction-sales in execution of decree, and, if they can possibly meet the amount of the decree, they pay before sale is effected. Bidders at these official sales are always more or less distrustful of the completeness of the information they receive as to the encumbrances with which the property for sale may be burdened. If another uncertainty is added to those which already exist, the Officiating

Chief Commissioner apprehends that the prices realised at sales will be still further reduced, and that the practical effect of the measure may be to benefit an occasional judgment-debtor, who has been reckless in his procrastination, at the cost of that great class of judgment-debtors with whom there is no alternative but sale of their lands.

'In Mr. Woodburn's opinion an extension to the Civil Courts of the powers given to the Collector by section 325 of the Civil Procedure Code would be preferable to the proposal made in the Bill.'

"Now, against the doubts expressed by Mr. Woodburn we have to set the opinion of the experienced Judicial Commissioner, who writes as follows:—

'The Officiating Judicial Commissioner is decidedly in favour of the provisions of the Bill as giving the judgment-debtor a chance to redeem his property and thus preventing hardship to him, especially where the property has been sold for less than its proper value. The Officiating Judicial Commissioner has seen it suggested that purchasers will not care to come forward in uncertainty as to whether they will eventually get possession of the property; but Mr. Stevens thinks that the certainty of getting at least a profit of five per cent. on the purchase-money, three-fourths of which need not be paid till fifteen days after the sale, ought to be a sufficient inducement. It is a great advantage to discourage applications under section 311 of the Code, a very large proportion of which are at present groundless.'

"I may mention in passing that the other officers who were consulted by the Chief Commissioner also express their approval of the Bill, and the Chief Commissioner's communication therefore only reflects the individual doubts, which are said to be considerable, of Mr. Woodburn himself, rather than the deliberate opinion of the Administration. Mr. Justice Fulton, however, in no way approves of the proposed extension of section 325 to the Civil Courts. The learned Judge must know that the provisions of this section were deliberately not made applicable to execution sales generally because we could not impose upon the Civil Courts the duties prescribed by section 325 without making very considerable additions to the number of our Judges of all grades, a fact of which Mr. Woodburn seems to be oblivious. It has also been urged in favour of the Hon'ble Member's plea for delay that if we pass the present Bill we shall have two dissimilar laws operating in Bengal, one contained in section 174 of the Bengal Tenancy Act, and the other in the present Bill. Now, I must confess that this argument is too subtle for me. The drafting is no doubt slightly different, but the principle is the same, as this Bill has been avowedly modelled, I need hardly remind Hon'ble Members, on the lines of section 174 of the Bengal Tenancy Act. Instead of two laws therefore in Bengal, one for tenants whose holdings have been sold and another

for other judgment-debtors, we shall by passing this Bill remove the distinction which now obtains in this Province—a distinction for which I am unable to find any sufficient justification.

"I trust I have said enough to show that this Bill, however imperfect, would give some relief at least in a limited class of cases, and that no harm will be done if it is now passed into law, as it cannot bar the way to a more comprehensive measure in the future, such as I trust would satisfy the Hon'ble Mr. Lee-Warner. In opposing the motion now before the Council I can assure Hon'ble Members that I have not been actuated by any parental feeling towards this little measure—'this ill-favoured thing'—merely because 'it is mine own.' I have thought it my duty to oppose the motion because the acceptance of it must end in the ruin of many honest debtors, the breaking up of numerous households, and with it the breaking of countless hearts."

The Hon'ble SIR ANTONY MACDONNELL said:—"As I am a member of the Select Committee I wish to offer a few remarks which possibly may induce the Hon'ble Mr. Lee-Warner to think that it is not desirable to press his motion. All the Local Governments approve of the object of the Bill; they, all of them, think that there is a substantial evil to be remedied, and they believe that the provisions of this Bill will go some distance towards that remedy. The Hon'ble Mr. Lee-Warner thinks that these provisions do not go sufficiently far, and he is apprehensive that, if this Bill is allowed to pass, the opportunity of the further and more far-reaching measure of reform which he desires may not present itself. In this I think my hon'ble friend is mistaken. It has been hitherto the custom for our Government to subject its Codes of Procedure to periodical revision. Hitherto the Code of Civil Procedure has been so revised at the end of ten years, and the time has now come for another revision of the Code; and I believe I shall be borne out by the Hon'ble the Law Member when I say that probably when a convenient opportunity presents itself the Civil Procedure Code will be again revised. When that revision takes place the whole question raised in this Bill will again come under the consideration of the Government and the opportunity for proposing and urging those large measures of reform which the Hon'ble Mr. Lee-Warner desires, and which I for my own part am not prepared to say are not necessary, will present itself. In the meantime this little Bill, which all the Local Governments think desirable, will be in the nature of tentative legislation, from the operation of which we shall be able to judge better than perhaps we can now of the direction in

which a larger measure of reform is desirable. I have offered this explanation in the hope that it may induce my hon'ble friend to reconsider his motion."

His Honour THE LIEUTENANT-GOVERNOR said:—"I am not prepared to support this motion. It is well known that I expressed my hearty approval of the principle embodied in this Bill at the time, and even before, it was introduced, and it seems to me that, when we have discovered a specific grievance and have applied a specific remedy, it is desirable that no time should be lost in putting that remedy into action, even although it may be true that there are other grievances and other remedies which may come before the Council at some future date.

"With regard to section 174 of the Bengal Tenancy Act, if the request had been made earlier, it might have been possible to obtain more information as to the exact nature of its working. The only thing I am able to present my hon'ble friend with is a passage from the report of the Board of Revenue, dated the 30th April, 1892, on the working of the Tenancy Act up to date, in which the Board say:—

'*52. Section 174.*—The operation of this section is favourably spoken of, and it is suggested that it should be extended to persons claiming through a judgment-debtor.'

"And then we have what the Hon'ble Dr. Rashbehary Ghose has already quoted, *viz.*, the figures given in Mr. Handley's letter, as showing the number of cases in which that section has been taken advantage of in the Nadia district. It so happens that in the papers which are before the Council that statement is not printed so as to show what period his figures refer to. I wrote therefore to Mr. Handley and learned from him that the figures in column 3 of the statement referred to the period between January, 1886, and December, 1892, except for three of his Subordinate Courts, the records of which were wanting. In those seven years there were in all 198 cases of this class, or in other words 16 per cent. of the judgment-debtors applied to obtain permission to redeem their property under section 174. We could, no doubt, with a little more trouble, and if more time were allowed, obtain further information as to the number and class of cases in which the section has been utilised in all Bengal, but I do not know that the statistics would be very useful.

"It must be remembered that these are sales under the Tenancy Act in which the property of tenants was sold for arrears, and, the tenancies being small, the arrears and amounts are small; but the Bill we are discussing refers to ordinary sales under the Civil Court, and may apply to land or real property of different kinds, and will probably refer to much larger decrees and debts. It does not seem to me that there is any validity in the Hon'ble Member's objection that we should not have one kind of procedure in the case of the debts of tenants and another kind in the case of debts of persons against whom decrees have been taken out in the ordinary Civil Courts. It is known to the Members of Your Excellency's Executive Council that I have already made proposals for extending a similar procedure to a third class of cases, *viz.*, to sales in default of the payment of land-revenue. Under my proposal, the penalties are more numerous, more various and more severe than those in the Bill now before the Council. I am not imbued with the passion for uniformity which influences some of the Members of Your Excellency's Council, and I think it is decidedly desirable that we should have a different treatment as regards sales under the Tenancy Act, under the ordinary Civil Courts, and under the law dealing with default of revenue.

"But, though I am not now prepared to support the motion before the Council, I must explain that up to yesterday I was fully prepared to support it, and it is only the fact that yesterday morning I received the amendments now to be considered which has prevented me from joining in the motion before you and in opposing the passing of the Bill in the manner in which it has been brought before the Council by the Select Committee. I may say that we are under a considerable disadvantage in consequence of the delays which now frequently occur in the Legislative Department in laying information before us. It was on last Thursday that the Report of the Select Committee was presented to us. The first time I saw it was in the Gazette of India of Saturday, and I did not receive the official copy of the Select Committee's Report till Monday. It does not seem to me that it would have been difficult to have had that small quantity of matter printed at the Government Press and circulated to Members of Council on Thursday evening, and I am sure that my hon'ble friend the Legal Member will admit that it is a great disadvantage to Members of Your Excellency's Council that they should have to consider important questions of this kind at so short a notice. On Saturday, as I have said, I saw the Report of the Select Committee and thought that the proposed procedure was absolutely unworkable. Excellent as

the principle of the Bill was, it would have been wrecked if the faults in it had not been pointed out to the hon'ble promoter of the Bill and amended in the form in which we now see them. The principle being accepted, the important point in the procedure was to provide that the judgment-debtor should be able to know exactly the sum which he had to pay in order to redeem his property. The mode in which the Select Committee proposed to give that information was by referring him to the warrant of sale which is a document given by the Judge to the nazir or bailiff, and of which the public has no cognisance."

The Hon'ble SIR ANTONY MACDONNELL said that, with all respect for His Honour the Lieutenant-Governor, he desired to speak to a point of order. The motion before the Council was that which the Hon'ble Mr. Lee-Warner had placed on the *agenda* paper. He begged to submit that His Honour the Lieutenant-Governor was not in order in referring to a draft section of the Bill, which was not now before the Council.

His Honour THE LIEUTENANT-GOVERNOR said that he was referring to the Bill as it left the hands of the Select Committee, the consideration of whose Report was now before the Council.

The Hon'ble SIR ALEXANDER MILLER said:—"It might answer the Hon'ble Lieutenant-Governor's purpose if I were to say at once that the error was entirely my fault. When the amendment was proposed in Select Committee we had not the Code of Civil Procedure handy to refer to. As soon as the Hon'ble Dr. Rashbehary Ghose mentioned the point, steps were taken to set it right by the notice of amendment on the paper."

His Excellency THE PRESIDENT said that the question now before Council was the Hon'ble Mr. Lee-Warner's motion.

His Honour THE LIEUTENANT-GOVERNOR said:—"My object was to explain that the Bill, as it originally passed out of the Select Committee and as it now stands before the Council, was drawn out without due consideration of the correct procedure, and that it was only when I saw these amendments that I satisfied myself that there was no reason for my opposing the further progress of the Bill. But, after what has been said by Sir Alexander Miller, I do not propose to make any further remarks on this subject."

The Hon'ble MR. LEE-WARNER said:—"In view of the appeal and the assurance which has been addressed to me by the Hon'ble Sir Antony MacDonnell, I think it is quite unnecessary for me to enter into the matters of controversy which have been raised or to go beyond the opinions of the Local Governments which I have quoted. The position is rendered clearer by the two admissions which have been made by the Hon'ble the Law Member and the Hon'ble Dr. Rashbehary Ghose. The evil which this Bill is designed to cure is fully admitted, and Dr. Ghose has described it as one which under the present system results in the 'breaking of countless hearts.' It has nevertheless been admitted that this Bill is not intended to apply to those who cannot pay the deposit, but that it is intended to apply to the apathetic few who could have paid before their property was sold and can still raise the money; and therefore we may still have cause to fear for the many hearts that will yet remain to be broken when this Bill becomes law. At the same time, after the various explanations which have been offered and with the assurance which the Hon'ble Sir Antony MacDonnell has given that he will see that the Government of India hereafter takes the opportunity of reviewing the various remedies suggested, and that they will consider whether there are not adequate remedies to meet this grave evil, I am content under the circumstances to withdraw the amendment which I had proposed to make."

The Motion was therefore withdrawn.

The Hon'ble DR. RASHBEHARY GHOSE moved that the following be substituted for clause (*b*) of section 310A of the Code of Civil Procedure, proposed by section 2 of the Bill as amended:—

> "(*b*) for payment to the decree-holder, the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, less any amount which may, since the date of such proclamation of sale, have been received by the decree-holder."

He said:—"The object of the amendment may be explained in a very few words. As the revised Bill now stands, the judgment-debtor in order to be able to redeem his property must pay the amount specified in the warrant of execution. Shortly after the Bill had been revised by the Select Committee this section—as His Honour the Lieutenant-Governor has pointed out—was found to be unworkable. I therefore proposed, and the proposal was agreed to by the other Members of the Select Committee, that the words 'proclamation of sale' should be substituted for the words 'warrant of sale.' The amend-

ment also supplies an obvious omission. The proclamation of sale would no doubt tell the judgment-debtor the amount he must pay as recoverable under the decree in order to save his property, but a portion of the amount due to the execution-creditor may have been paid by the judgment-debtor since the proclamation or may have been levied by the execution-creditor in one of the ordinary modes prescribed by the Code of Civil Procedure for the execution of decrees. The amendment accordingly provides that credit should be given by the execution-creditor for any such amounts which may have been received by him."

The amendment was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER said that before the next amendment was put he desired, with His Excellency's permission, to call the attention of the Council to another slight amendment which was necessary in the last line of the last paragraph of this section, and which was one of a purely consequential nature. He wished to propose that the words "proclamation of sale" be substituted for the words "warrant of sale."

The amendment was put and agreed to.

The Hon'ble DR. RASHBEHARY GHOSE moved that in the last paragraph of section 310A of the Code of Civil Procedure, proposed by section 2 of the Bill as amended, the words "and interest" be inserted after "costs" in line 3. He said that the object of the amendment was to supply an omission in the Bill. Judgment-debts as a rule carry interest, and something must therefore be due to the execution-creditor on account of interest which would not be included in the proclamation of sale. The object of the amendment was to supply this omission.

The Motion was put and agreed to.

The Hon'ble DR. RASHBEHARY GHOSE then moved that the Bill, as amended, be passed.

His Honour THE LIEUTENANT-GOVERNOR said that he was heartily glad that the Bill was now being passed, and he believed that it would do much good. He only wished to refer to two points with regard to which it might have to be amended hereafter. One was the use of the words "five per centum of the purchase-money." He thought it unfortunate that the Select Committee had

not accepted the suggestion of the Madras Government that for those words the words "one-twentieth of the purchase-money" should be substituted. The words "five per centum" would be connected in the human mind with a period of time, and it was not improbable that Munsifs and Subordinate Judges would understand it to mean five per cent. per annum up to the time the debtor paid the money. His Honour thought it well to mention this point so that attention might be drawn to it, so that it might be made clear what the correct meaning of the passage was.

"Then, too, it was unfortunate that there was not another clause inserted specifying the definite procedure by which the judgment-debtor should be able to go into Court and obtain a certified statement of the amount he had to pay. The proclamation was a paper which was hung up at the door of the munsifi and might easily be blown away or torn up. The judgment-debtor might be unable to obtain the information it contained, and there might be some subsequent expenses to be added, and the technicality of our Courts was such that if a debtor came into Court offering to pay, say, Rs. 1,121-9-6, and the Court was able to reply that this was indeed the figure named in the proclamation, but that the costs of the sale and interest up to date had raised the total to, say, Rs. 1,131-15-3, there was a great probability that his application would be thrown out and his opportunity of redeeming his property would be lost. It would therefore have been more convenient if there had been a procedure by which he would be able to apply to the Court for such information. With the exception of those slight deficiencies in procedure, which would probably have to be amended the next time the Code came under revision, His Honour was sure that the Bill would be useful, and he heartily and entirely approved of the principle which it involved.

The Hon'ble SIR ALEXANDER MILLER said that the point was considered in Select Committee, and the view of the Select Committee was that, on paying the sums included in the proclamation of sale, a man could redeem his property without being obliged to pay for the purposes of redemption those small sums for costs or otherwise incurred afterwards, but that these might be recovered from him in the ordinary way. That was the meaning of the last clause in the section.

His Honour THE LIEUTENANT-GOVERNOR said that his fear was that it was not quite specific enough.

[1ST MARCH, 1894.] [*Sir Antony MacDonnell; Mr. Westland.*]

The Hon'ble SIR ANTONY MACDONNELL said he hoped he would be allowed to speak to a point of order. The motion before the Council was that the Bill should now be passed. Much of what had fallen from His Honour the Lieutenant-Governor was of a contentious nature, which would, if the rules allowed, call for a reply. But he thought it was undesirable that a discussion of this nature should be raised at this stage of the proceedings.

The Motion was put and agreed to.

INDIAN STAMP ACT, 1879, AMENDMENT BILL.

The Hon'ble MR. WESTLAND presented the Report of the Select Committee on the Bill to amend the Indian Stamp Act, 1879, with respect to Policies of Sea-insurance and Sale-certificates. He said he wished to draw the attention of the Council to the principal amendment made by the Select Committee, *viz.*, the introduction of a definition from the English Stamp Act of the words "sea-insurance". The advantage of the definition lay in the fact that sea-insurance also included river-insurance, and that by its adoption in the Bill the provisions of the law relating to sea-insurance were extended to river-insurance; an existing mercantile practice being thus placed beyond doubt as to its legality.

PRISONERS ACT, 1871, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER presented the Report of the Select Committee on the Bill to amend the Prisoners Act, 1871.

INDIAN TARIFF BILL.

The Hon'ble MR. WESTLAND moved for leave to introduce a Bill to amend the law relating to Customs-duties, and for other purposes. He said:—

"Six years ago it was my fate, in this Chamber, to propose to the Legislative Council of Your Excellency the last measure of purely fiscal legislation by which it was sought to improve the general resources of the Government. At that time I laid before the Council a review of recent finance, in which I showed, shortly, that within about four years we had been called upon to enhance our expenditure by nearly Rx. 1,200,000, in consequence of increase of the army and of military measures adopted on the North-West Frontier, nearly Rx. 1,800,000 in consequence of the annexation of Upper Burma, and nearly Rx. 1,800,000 in consequence of increase of exchange charges. These increases

of expenditure we had during that period met by imposition of Income Tax, by absorption of the Famine Grant, and by curtailment of the revenue assigned to provincial purposes.

"We found ourselves then at the end of our existing resources. Exchange was still falling, opium revenue was showing signs of diminution, and the productiveness of Railways was for the time decreasing. We came before the Council, therefore, to justify an increase in the Salt-duty which we had imposed within our legal powers, and to ask for further powers of taxation, namely, in respect of petroleum.

"I then laid before the Council a short review of current finance, in which I addressed myself in part to the question of the extent to which we had permitted increase of expenditure in matters within our control. I shewed that that increase amounted for ten years to only Rx. 200,000 a year, and it was impossible for us, I urged, to have discharged the duties of a civilized Government in India without admitting at least this amount of increase to our expenditure.

"To-day I come before the Council with a much more serious proposal, but based upon the same grounds. Again our revenue is falling seriously short of our expenditure, but of this there is now one cause, and one cause only. It is that the fall in the value of the rupee has of late been increasing the burden of our sterling payments in a ratio which far outstrips any possible increase to be hoped for in our revenues. And as exchange, and exchange only, is the burden of my song, I have had some figures prepared which will shew, with reference to this item, the extent to which the charge has affected our financial position in the past, and the acute degree to which we are suffering from it in the present. The figures I produce cover the finance of sixteen years; but they are drawn up in such a condensed form that I trust I shall be able to give a sufficiently accurate idea of my subject without wearying the Council with a long array of figures.

"It will be observed from the statement of net accounts* which I have laid before the Council that I exhibit the accounts of each year in twelve figures only. The first three of these give the net totals of revenue (without regard to exchange) under three heads, *viz.*, (1) our ordinary Revenue heads, (2) the Post Office and Telegraph, and (3) the Railways. Then follow, for each year, eight figures giving the net totals of our expenditure, also without reference to exchange. And then I shew the surplus as it would have stood had our rupee remained continually at its old nominal (though very rarely real) value of two shillings.

* *Vide* Appendix.

"I then shew, in a single figure, the effect of the exchange charge upon the year's account, converting the surplus in seven cases out of sixteen into a more or less heavy deficit.

In one year there was a deficit even excluding exchange.

"I ask the Council to bear with me while I use these figures to show in as simple a form as possible what the real increase of revenue and expenditure has been in the past, and while I try to satisfy them that it is not from any cause avoidable by our own efforts, or by reason of any laxity either in developing revenue or in controlling expenditure, that we come before them to-day to ask for increased powers of taxation.

"*Analysis of recent Accounts.*

"The first line in the statement which I have placed in the hands of Hon'ble Members shows that the net REVENUE of the Empire (*i.e.*, the ordinary Revenue, after meeting charges of collection and the like) has steadily increased from Rx. 46,000,000 to over Rx. 53,000,000, giving an average increase of over Rx. 400,000 a year, besides the addition of the revenue of Upper Burma.

"Passing to details under this head, we find that the *Land Revenue*, steady at about Rx. 20,000,000 for the half of the period, has lately been rising, and its standard is now about Rx. 3,000,000 higher, of which about Rx. 600,000 is due to Upper Burma. Re-settlement operations are active in several of the provinces, and continued increases may be expected under this head. *Salt*, which stood at Rx. 6,300,000 at the beginning of the period, may now be stated at over Rx. 7,500,000. For six years in the middle of our statistics, the figures stand at a comparatively low figure, as the salt-duty was lowered in March, 1882, but was again raised in January, 1888. The revenue from *General Stamps* gradually rose from Rx. 826,000 in 1878-79 to Rx. 1,304,000 in 1893-94. The *Court-fees* revenue, which also shows a great rise, is necessarily accompanied with increase of expenditure, and will be noticed in connection with the Expenditure on Law and Justice. *Excise* shows a remarkable increase. It stood at Rx. 2,500,000 in 1878-79, and the figure has now all but doubled. No branch of revenue administration has during the period under review received greater attention than this. Practically a new era of excise administration set in, in Bombay, at the beginning of this period, and the principles first adopted there were introduced with similar success in Madras; in other provinces also the restrictive measures, which a closer administration has enabled the Local Governments to carry into effect, have led to a great restriction of illicit consumption concurrently with considerable increase of revenue. *Customs* revenues and *Assessed taxes* have been levied at nearly the same rates for the last

eight years (except for the Petroleum-duty, which now produces Rx. 200,000), but the returns have shewn an almost regular increase. The *Forest* Department at the beginning of the period produced a net return of only Rx. 150,000, but now brings us in Rx. 600,000 or Rx. 700,000, besides having effected an increased accumulation of Forest wealth throughout India. *Opium* alone of all the heads of revenue shews a decreasing productiveness, and that is due to causes which lie beyond our control. At the beginning of our period we got a net revenue of Rx. 8,000,000, but lately we are obliged to regard Rx. 6,000,000 as a fairly good year. It is almost entirely in the diminution of the number of chests exported, and only to a small extent in that of the price obtained, that this falling off has occurred.

"The second line of the statement shows the net working of the POST OFFICE, Telegraph and Mint Departments. For the first half of the period under review, these Departments, combined, failed to pay their way; but during the last half they have shown a small but increasing surplus.

"The next line, showing the net revenue obtained from the working of the RAILWAYS, also shows a most satisfactory progress. It must be remembered that the account is charged with the interest upon the capital expended on construction, both of the unopened as well as of the opened lines. Changes in accounting, arising in connection with the transfer of the East Indian Railway and other transactions, destroy the usefulness, for comparison, of the figures in the first two years of the period covered by the statement; but for the rest of the time, the figures may be taken as compiled on the same basis, and they shew a substantial, though irregular, increase in the railway returns. I regret to say that I shall have to shew, later on, that the whole of this advantage, and more, is swept away by the increase in the exchange upon the sterling interest which we have to pay in respect of the Guaranteed Companies and their successors.

"We pass to the Expenditure side of our accounts, in which the first line shews the charge for INTEREST. The burden of interest, it will be seen, has very greatly diminished. For the same reason as is mentioned in speaking of the Railway revenue, the first two years' figures have to be left out of account in the comparison; but during the rest of the period under review the charges have regularly diminished, except in the year 1887-88, in which a high charge came into the English accounts in connection with the conversion of 4 per cent. into $3\frac{1}{2}$ per cent. stock and the alteration in the dates of interest payment. This continual diminution, though not due to actual discharge of debt, arises from an operation which is practically equivalent to it: the funds which would otherwise have been used for discharge of debt have been actually used in construction of

Railways, and the interest charge not only transferred to the Railway account, but actually met—and, as just pointed out, more than met—by the Railway earnings.

"The next lines shew the expenditure on ADMINISTRATION, and it is under this head and under that of Army Services that I have to answer the question what we have done with our increasing revenues. The administration charges as a whole have increased from Rx. 10,657,000 to Rx. 14,754,000, but it is better to consider them in the detail shown in the account at the bottom of the page.

"The first head is the *General Administration* of the country down to and including the district officers and their subordinates. The whole charge has increased from almost exactly Rx. 3,000,000 to almost exactly Rx. 4,000,000, but about Rx. 350,000 of this, between the years 1885-86 and 1886-87, is due to a change in classification, which on the revenue side appears under Land Revenue. We do our best to avoid such changes, as they destroy the value of our accounts for comparative purposes, but changes are occasionally introduced by administrative measures, and even by legislative measures, which necessitate consequent alterations in our accounts if they are to shew the real facts of expenditure. The total increase of expenditure, therefore, is only Rx. 650,000, or a little over Rx. 40,000 a year. To examine the detail of it would be tedious, and I feel sure that no one whose personal experience includes the India of 1878 and the India of 1894 will consider that an increase of a little over 20 per cent. in the cost of administration, which it must be remembered includes the cost of a new province, in any way measures the progress recorded during the interval.

"The increased cost under the next head, *Law and Justice*, is only Rx. 450,000. The revenue by Court-fees has increased during the same period by Rx. 820,000. Although this last item includes a good deal of revenue which has no connection with the Courts charged under Law and Justice, the figures may be taken as proving that Law and Justice are not an increasing burden on the finances of the country. *Police* charges have increased, if we exclude Upper Burma, from Rx. 2,210,000 to Rx. 2,930,000. Increased expenditure under this head has been forced by many considerations upon all the Governments, and the limit of increase is not yet reached. Elaborate enquiries made by special commissions in recent years have shown the necessity of improving the working of the police and increasing the strength of the force, and measures are being taken in nearly every Province to carry the proposals of the several Commissions into effect. An increase of 50 per cent. in Education charges and of a moderate amount under *Medical* represent expenditure which goes directly to the advantage of the people of India. The *Political* expenditure has increased

from Rx. 450,000 to Rx. 820,000—an increase which is chiefly due to the necessities arising out of the extension of our North-Western and Eastern frontiers. Political subsidies, political expeditions,—ranging from the Afghan Delimitation, which cost over half a million, to minor expeditions and missions which occur every year,—and charges for refugees and State prisoners all enter into and increase the expenditure under this head.

"The *Non-effective* administration charges—that is, the Political allowances and Service pensions and Leave allowances—remained very steady at about Rx. 2,800,000 from 1880-81 to 1889-90. Before that period the figures are affected by transfer of certain charges which used to be taken under interest, but by the abolition of service funds came under direct payment by the Government. The expenditure tends slightly to increase, and that increase has been somewhat more marked during the last three years, partly by reason of the falling off in the receipts of the abolished military funds and partly by the improved terms as to exchange given to the recipients in England of rupee pensions and furlough allowances.

"The next head—that of FAMINE—includes, besides what is usually a small amount of actual famine expenditure, the grant which we make out of our surplus revenues, when we have any, towards protective irrigation and protective railways. We have at present a compulsory expenditure under the last category of about Rx. 380,000 towards the loss accruing to Government on account of the Bengal-Nagpur and Indian Midland Railways. This amount is now shown in the Railway account, but the balance of Rx. 1,500,000, after this loss is met, is used, when we are able to afford it, for actual construction of railways and canals. We made the full grant in the five years beginning 1881-82: thereafter for five years the state of our accounts compelled us greatly to limit the grant; but the improvement in revenue and in exchange enabled us to make the full grant in 1891-92, 1892-93 and 1893-94.

"The next head in our statement includes the IRRIGATION charges. This expenditure is directly productive of benefit to agriculture. Including the charge for interest upon capital expended upon major works, the expenditure has risen from about Rx. 900,000 at the beginning of the period to Rx. 1,300,000 at the end of it; but, on the other hand, the amount of land-revenue which the Major Works have brought in (which is not separately shewn in these statements, though it is separately shown in our accounts) has increased during the same period from Rx. 450,000 to Rx. 700,000. We do not attempt to reckon in our accounts the similar benefit arising from the Minor Works.

"The next line is RAILWAY CAPITAL expenditure, with a few small Railway items which are not strictly speaking capital. The heavy charges at the

beginning of the period represent the construction of frontier Railways. Latterly the expenditure, excluding some Provincial expenditure on Railway Construction, has been confined to the Railway Direction establishments of the Government, the purchase of land for Subsidized companies and Surveys for projected railways. The burden of these charges is Rx. 200,000 to Rx. 300,000.

"For the explanation of the MILITARY EXPENDITURE I must first of all refer to the statement at the bottom of the page which distinguishes between normal expenditure and war expenditure. The period under review contains two wars,—one in Afghanistan and one in Burma, besides minor expeditions; and also large charges in recent years on account of 'Special Defence' works. The figures which have to be explained are those which remain after the elimination of these special charges.

"The effective charges of the Army have increased in the sixteen years from about Rx. 13,000,000 to Rx. 16,000,000. The general explanation of this increase is (I) Increase of British army by 9,255 officers and men, and of Native army by 20,765 officers and men: involving increase of all establishments and of charges for clothing, feeding and equipment generally, and also for warlike stores; (II) Fall in exchange. The pay of the British soldier is fixed at sterling rates; and the difference on this account alone, between the pay of the present strength of non-commissioned officers and men, at the rates they received in 1878-79 and those they received in 1893-94, amounts to Rx. 863,000. (III) Occupation of new territory, *viz.*, Upper Burma, Gilgit and Baluchistan. (IV) More elaborate and scientific and consequently greatly more expensive armaments. (V) Development of the Volunteer forces. (VI) Increase in the price of food-supplies in India. (VII) In England, introduction of the grant of deferred pay.

"The *Military Works* charges were at the beginning of the period under review fixed at Rx. 1,000,000 a year, but recently it has been necessary to increase the amount to meet the requirements of Upper Burma.

"*General financial position as affected by exchange.*

"So far, I have been dealing with the accounts apart from any question of exchange, and the summary of the accounts so stated is shewn in a separate line of my statement as the Surplus excluding exchange. This surplus necessarily varies from year to year, as we have bad or good revenue years, or as we have or have not special expenditure. It is easy, however, to show at what figure the surplus thus stated (always excluding exchange) would have stood

apart from certain special and very variable expenditure; and, as it is useful for my present purpose to thus set it forth, I shew the following figures :—

Year.	Surplus in Accounts.	Special Expenditure.			Surplus apart from special Expenditure.
		War charges and special defences.	Railway capital in excess of Rx. 250,000.	Famine. (a)	
1878-79 . .	5,252	600	—30	313	6,135
1879-80 . .	1,729	4,630	1,563	104	8,026
1880-81 . .	—1,358	8,101	2,140	35	8,918
1881-82 . .	6,107	—877	252	1,568	7,050
1882-83 . .	3,791	609	493	1,495	6,388
1883-84 . .	5,194	63	—501	1,523	6,279
1884-85 . .	2,965	162	151	1,548	4,826
1885-86 . .	1,263	2,726	525	1,500	6,014
1886-87 . .	5,534	270	72	461	6,337
1887-88 . .	3,584	446	—73	377	4,988(b)
1888-89 . .	5,904	1,055	—129	509	7,339
1889-90 . .	8,736	1,021	—27	1,062	10,792
1890-91 . .	8,568	832	—70	1,082	10,412
1891-92 . .	7,262	1,266	38	1,500	10,066
1892-93 . .	8,842	639	107	1,500	11,088
1893-94 . .	8,040	601	—39	1,500	10,102

(a) These figures include the loss on certain Railways, charged in the Railway Account.

(b) After allowing for a payment of £746,000 under interest in connection with conversion of debt.

"My object in bringing out the figures in this form is to deduce from them what I may call the general financial position, apart from the fluctuations of revenue and expenditure due to peculiar circumstances of each year. The measures which I have to propose to the Council are measures of a permanent character, and I could not justify them if I were merely to set forth the actual or the estimated Revenue and Expenditure of any given year. This is not the time when the Council deals in detail with the figures of particular years, and I now use the details which I have presented for the purpose of eliminating from them the varying features of successive years, and stating what I describe as the general financial position, not varying irregularly from year to year, but gradually altering for better or worse during the whole period under review.

"With this object I ask attention now to the figures in the last column of the statement just set forth, which show the surplus which our ordinary revenue account gave us before we met the exchange charges and the charges of war and of famine. At the beginning of the sixteen-year period that surplus was Rx. 8,000,000, gradually coming down, by remission of Customs-duties, to Rx. 6,000,000. In 1884-85, by a serious failure in opium, it came down

below Rx. 5,000,000; but in the next two years the figures again stood at over Rx. 6,000,000. In 1887-88, there came upon us a heavy charge for an increase to the army necessitated by our new military relations to the North-Western and to the Eastern Frontiers; and the surplus fell to Rx. 4,988,000. We now took measures for the increase of our revenue. The tax on salt was increased, an import-duty placed on kerosine and patwari-cess partly re-imposed in the North-West Provinces. Moreover, Upper Burma began to bring revenue into our account, and new land-revenue settlements began to increase the returns under that, our main head of revenue. The result was shown in our quickly attaining a standard of revenue which enables us to state our recent surplus, under the conditions already stated, at over Rx. 10,000,000.

"Assuming, therefore, that we are bound to set aside, as a famine reserve, about Rx. 1,500,000 of our excess revenue, and assuming further that exchange were to stand at 1*s.* 8*d.*, so that we would have to pay about Rx. 3,200,000 for the remittance of our English demands (amounting now to about £16,000,000), the history of the last sixteen years would show, apart from war charges,—

(1) for nine years a surplus diminishing from Rx. 3,300,000 to Rx. 1,300,000;

(2) in the evil year 1887-88 a practical equilibrium (surplus of only Rx. 288,000);

(3) since then, a surplus beginning with Rx. 2,600,000 in 1888-89, and standing in subsequent years at Rx. 5,300,000.

"But now I draw attention to what has actually happened. The exchange charges, instead of remaining at about Rx. 3,200,000, have since 1884-85 steadily increased, the actual excess over this figure being, as will be seen from the figures in my net statement in the line marked X—Exchange—

	Rx.		Rx.
1884-85 . . .	152,000	1889-90 . .	2,924,000
1885-86 . . .	865,000	1890-91 . .	1,680,000
1886-87 . . .	2,156,000	1891-92 . .	3,594,000
1887-88 . . .	2,412,000	1892-93 . .	6,475,000
1888-89 . . .	2,667,000	1893-94 . .	6,435,000

"In short, since 1887-88, while our surplus of revenue, after providing for the famine reserve and for exchange at 1*s.* 8*d.*, but before providing war charges, had risen from Rx. 2,600,000 to Rx. 5,300,000, the fall in the exchange has thrown upon us an additional charge rising from Rx. 2,667,000 to Rx. 6,435,000. In fact, the exchange charge was just within our resources in 1888-89, but it is ahead of us now (that is, in the Budget Estimates of 1893-94,) by Rx. 1,135,000.

"There were two or three intermediate years in which the charge for exchange was not advancing as fast as the revenue, and the fact enabled us to close the year with actual surpluses, namely:—

	Rx.		Rx.
1889-90 . .	2,612,000	or, as they would have stood had the full famine reserve been charged off . .	2,174,000
1890-91 . .	3,688,000		3,270,000
1891-92 . .	468,000		468,000

"But the hope that this cessation, or at least diminution in the rate, of the fall of the rupee gave us, has been dissipated by the experience of the past two years, and the charge for exchange has again overtaken and even passed the improvement of revenue which we can set against it.

"Even in thus stating our available revenue as falling by Rx. 1,135,000 behind the increasing burden of exchange, we are taking the rupee (as just mentioned) at its figure of last March, *viz.*, 1*s.* 2¾*d.* The highest at which we can really put it now is 1*s.* 2*d.*, and it is a question if even that is not for the next year a sanguine estimate. We may reckon every farthing of fall, under present circumstances, as involving a charge, in the remittance account alone, of Rx. 450,000, so that our deficiency of last March, Rx. 1,135,000, becomes, by the fall of exchange to 1*s.* 2*d.*, during the present year, about Rx. 2,485,000.

"In all this it must be remembered we are leaving war charges out of account. In our situation in India these charges are unavoidable, and the Budget of 1893-94 provided Rx. 601,000 on their account, and thus showed a deficit considerably larger than the Rx. 1,135,000 which I have above set forth. If we take these charges into account (I trust they will be less in future), our deficit with the rupee at 1*s.* 2*d.* would be about Rx. 3,000,000.

	Rx.
Deficit excluding war charges .	1,135,000
Add war charges . . .	601,000
TOTAL .	1,736,000
Deduct a difference chiefly due to the item called "gain by exchange"	141,000
Deficit of Budget . . .	1,595,000

"*Exchange Compensation to European Officers.*

"There is another serious burden, arising from this same fall in the value of the rupee, which we have to bear, namely, the compensation which we have to pay to our European services for the fall in the exchange value of their salaries. The necessity for this had been pressing itself upon the Government for some time, and it was only with some hesitation that the Government decided, when the Budget Estimates last year were under consideration, that the decision on the question must be put off, until the settlement of the currency measures then under consideration of the Herschell Committee. When these measures were settled, the announcement was made that an

allowance would be made to the class of Government officers to which I have referred, of which the amount would be equivalent to the remittance of half their salaries (up to a maximum of £1,000) at an exchange of 1*s.* 6*d.*

"In justification of the necessity and policy of this measure of limited compensation, I wish to quote two or three weighty opinions, carefully guarding myself against any mere official utterance, which might under the circumstances be considered to be affected by personal considerations. The first is an extract from the address of the spokesman of the deputation to Lord Lansdowne of February 3rd, 1893, which declared itself as representing merchants, traders, shipowners, bankers, landowners, producers, manufacturers, importers and exporters, and which certainly did not contain a single European official member:—

'My Lord, we freely confess to a strong feeling of sympathy with the servants of Government who find their incomes daily dwindling, and who in consequence are in some cases put to severe straits, such as are calculated to do serious injury to the efficiency of the administration. We realise, in fact, that it will be absolutely impossible for Government to carry on the administration on the present terms. We are strongly convinced, however, that the adjustment of salaries and all other adjustments can only be properly effected by the reform of a currency system which has gradually, but with increasing rapidity, brought the country to the present pass.'

"The Herschell Committee, whose standpoint was a purely impartial one, reported on the same subject as follows:—

Servants of Government.

'17. The difficulties which the Indian Government have in meeting the Home charges are aggravated by the fact that the fall in exchange has led to claims on the part of their officers, civil and military, who receive salaries in rupees, to some compensation for the loss which they sustain owing to the fall in exchange. Many of those officials are under the necessity of remitting a considerable portion of their income to this country for the support of their families and the education of their children. It has been said that prices have fallen in this country during the last fifteen years, and that a smaller sterling remittance will now purchase more than formerly. This is no doubt to some extent true, but it does not apply to all prices. It is a matter of dispute how far the fall of prices in this country compensates for the smaller sterling remittance which the same number of rupees will procure; but it is certain that, when due allowance has been made for this, the purchasing power of the incomes of Indian officials has been largely reduced.

Practice of private employers.

'18. It appears that some European employers have felt themselves bound to make an allowance to the Europeans in their service in India sufficient to counterbalance to some extent the loss which they experience owing to the fall of the rupee; and there can be little doubt that even in existing circumstances, and still more if the fall of exchange continues, the Government of India cannot turn a deaf ear to the appeals of their servants for similar treatment without the danger of engendering serious discontent, apart from the question whether such appeals are just and reasonable.'

"The cost of this exchange compensation for the year 1893-94 may be stated as follows:—

	Imperial. Rx.	Provincial. Rx.	Total. Rx.
The Civil Services	83,400	202,900	286,300
The Military Services . . .	263,800	...	263,800
Public Works Department . .	53,900	29,400	83,300
	401,100	232,300	633,400

The compensation has been calculated this year upon an exchange a little better than 1*s.* 3*d.*, and for next year we shall likely, at the best, have to calculate it upon an exchange of 1*s.* 2*d.*; the charge for next year is at present estimated at about Rx. 680,000 for Imperial, and about Rx. 400,000 for Provincial. The whole of this is of course a burden upon our resources in one way or another, although, by the operation of the provincial system, part of it is provided for without immediate demand upon our available revenues, or immediate inclusion in our stated deficit.

"*Proposed Import-duties.*

"We are therefore face to face with a deficit, all told, of 3½ crores, which, as I trust I have convinced the Council, is wholly due to the deterioration of position caused by the fall of exchange during the last two or three years.

"It is hopeless to attempt to meet this position without increasing our revenues, and the Government have anxiously considered the best way in which they might seek for that increase. They are aided in this matter by the deliberations of the Herschell Committee, who enquired into the possibilities of further taxation in India, and passed in review all the sources of revenue suggested to them. They stated their conclusion upon the evidence relating to Import-duties in the following paragraph:—

'39. Of all the suggested methods of adding to the revenue, the re-imposition of import-duties would, according to the evidence before us, excite the least opposition; indeed, it is said that it would even be popular. The duties on cotton goods have, however, only recently been abolished. They were the subject of vehement attack in this country. Any attempt to re-impose them would meet with great opposition. And it cannot be denied that the re-imposition of such duties would provoke a demand for a countervailing excise upon all cotton goods manufactured in India. Although such an excise-duty might be collected without serious difficulty in respect of goods manufactured in the cotton mills of Bombay and elsewhere, it is alleged that it would be wholly impracticable to enforce it generally in view of the extent to which the manufacture of cotton goods on a small scale prevails throughout India.'

Import-duties.

"With the opinion that the revival of the import-duties is the best means of recovery—or partial recovery—open to us, the Government of India thoroughly concur. The measure opens to us not only an additional revenue, but an additional source of revenue, and our present position is unfortunately such that we cannot with any certainty claim finality for our present fiscal measures. We have entered upon a struggle with the falling rupee, and, however strong may be our hopes of ultimate success, every day has shown more clearly that the haven of rest is not to be reached without arduous efforts and prolonged anxieties. To add increased pressure to some of our existing taxes is a policy that might be pursued if we had to tide over a temporary difficulty out of which we saw an early escape; but it is a policy which would not meet either our present or our possible future difficulties.

"The proposal, therefore, which on the part of the Government of India I have to lay before the Legislative Council, is that we should take power to levy Import-duties, at the rate, except in a few cases, of five per cent. Her Majesty's Government agree with the Government of India in thinking that it is undesirable, at the first introduction at least, to impose a higher duty than this; but they are not prepared at present to sanction the inclusion of Cotton Yarns or Cotton Fabrics among the articles declared liable to duty.

"*Cotton-duties.*

"Under these circumstances I do not propose to discuss the question of Cotton-duties. I am anxious, however, that the real fiscal questions arising in connexion with them should be fully understood. The levy of a countervailing Excise-duty upon Indian manufactures is sometimes stated as part of the Cotton-duty policy. It is no doubt possible for us to levy such a duty on the manufactures in the cotton mills that lie within British India, but cotton mills have been erected also within Native Territory, and on the manufactures there no excise-duty can be levied by us. We might, of course, establish frontier customs posts, and levy duty on cotton manufactures passing them; but such frontier posts are open to the very strongest objection, and, after for a long time preaching free transit to Native States, it would be impossible for us, for very shame, quite apart from the intrinsic objectionableness of the measure, to adopt a contrary policy on our own account. On the other hand, if we excise our own manufactures, and do not excise those of Native States, we obviously protect a foreign industry against our own, besides raising all sorts of difficulties in the matter of granting drawbacks when Native manufactures are exported from British ports. In any case, it will be obvious that we can levy no excise-duty upon the manufactures of hand looms.

"It is, therefore, well to clear the way by pointing out that the question of levying duties on cotton goods is the question of levying Import-duties only, and not of levying also an excise on Local Manufactures.

"*History of Import Tariff.*

"Up till the time of the Mutiny the general rate of import-duties levied in India was 5 per cent., but that event rendered it necessary to increase the rate to 10 per cent. In 1864 the rate was lowered to 7½ per cent., with an implied understanding that it would be further reduced to 5 per cent. when the state of the finances permitted. This time arrived only in 1875, when what may be called a general tariff reform took place. The whole subject was referred to a Committee, of which the President was Mr. Alonzo Money of the Board of Revenue in Calcutta, and whose members were three Civil Servants, Mr. Lane, of Calcutta, Mr. Dalzell, of Madras, and Mr. Hope, of Bombay; and two merchants, Mr. Bullen Smith, who was, I believe, a former President, and Mr. Murray, who was the existing President, of the Bengal Chamber of Commerce.

"Besides revising the tariff valuations, they were requested to consider the propriety of removing from the tariff any articles too unimportant to be retained; to consider any cases in which the duties levied appeared prejudicial to trade; and to make any suggestions for subjecting fresh articles to duty, or raising existing duties.

"The Committee's report was based upon the 7½ per cent. duty, which they proposed in a few cases to reduce to 5, and in a few cases, subject to a strong dissent from Mr. Hope, to increase to 10.

"The estimates for the year 1875-76 were closed shortly after the report of the Committee was received, and the results were considered sufficiently favourable to warrant the Government in avoiding all discussions as to the rate of duty, by making a general reduction from a 7½ per cent. rate to 5 per cent. The Tariff Act of 1875 was accordingly passed, which adopted this as the general rate, and embodied the valuations adopted by the Committee, the most laborious portion of their work.

"The duties on liquor, on salt (including salted fish), and on opium, are in India regulated on principles peculiar to themselves. Their inclusion in the Tariff and in the Tariff Act is really part of the Excise Law, and of the law relating to the Salt-duty, and it is unnecessary further to refer to these subjects, as they do not belong to the present question. The same may be said of the duty on arms and ammunition, which was in 1875 raised to 10 per cent., and has been ever since so maintained.

"Excluding these special subjects, the duties levied under the Tariff Act of 1875 were 5 per cent., except in the case of cotton twist, which paid 3½ per cent., and iron and railway material, which paid 1 per cent., on the principle that a tax on such raw material would really be a tax on Capital. Railway locomotives and carriages paid, however, the usual rate of 5 per cent.

"The whole of these general duties were abolished before or in 1882, and, as I am now laying before the Council a proposal to reverse this abolition, I narrate the history of it in some detail.

"The first remission was made in 1878, and was partly the consequence of a Resolution passed in the House of Commons on 11th July, 1877, declaring that the cotton-duties, being protective in their nature, 'ought to be repealed without delay, so soon as the financial condition of India will permit.' The financial condition of that year permitted only of a limited measure of repeal, and the coarser qualities of cotton goods (*i.e.*, not containing yarn finer than 30s.) under certain designations were exempted at a cost of Rx. 25,600. At the same time railway material was also exempted from duty, the loss of revenue being calculated at Rx. 11,300. These remissions were made on grounds applying to the particular articles concerned, but opportunity was taken at the same time to exempt a number of other articles, *i.e.*, 26 heads in all, on the ground mainly that they were of small importance, and brought in only a total revenue of Rx. 39,600. The principal of these was 'Fruit and vegetables,' yielding a revenue of Rx. 6,100.

32s. for mule twist, and 20s. for water twist.

"Next year, that is, in 1879, a much more general repeal of cotton-duties was effected. All grey cotton piece-goods containing yarns not finer than 30s., and all cotton twist up to 70 for mule twist, and 50 for water twist—in short all cotton goods of quality not too fine to be then manufactured in India—were exempted from duty. This measure was estimated to cost Rx. 200,000.

"Next year, Sir John Strachey in his Financial Statement reviewed the then condition of the Customs-duties. He pointed out that the remission of the duties on certain classes of cotton manufacture had caused a great change in the trade, by reason of the strong inducement given to manufacturers to bring their goods as far as possible within the exempted classes, and that the dutiable classes were being so diminished by this change, that the cotton-duties as a whole were 'dying a natural death.' It was impossible, in view of existing financial conditions, to abolish the duties completely, as that would cost Rx. 600,000 in addition to the Rx. 250,000 already remitted, but he pronounced that these duties must soon be entirely remitted. He went on to say:—

'78. Before leaving this subject, I think it right once more to point out that we ought not to shut our eyes to the consequences which, as it seems to me, must inevitably follow from the loss of the cotton-duties. Whether those consequences ought, as I believe, to be welcomed as fraught with a great development of wealth and prosperity to India, or ought, as others think, to be looked on as disastrous, we cannot wisely shut our eyes to the fact that the abolition of the duty on cotton goods will involve in all probability the loss of a great part of our revenue from sea-customs. In the Financial Statements for 1877-78 and 1878-79 this was clearly pointed out. In the former of these, I said that I looked forward with confidence to the almost total abolition of customs-duties in India, and I used these words:—"I do not know how long a period may elapse before such a consummation is reached, but, whether we see it or not, the time is not hopelessly distant when the ports of India will be thrown open freely to the commerce of the world."

'The cotton-duties will yield, say, Rx. 615,000, and, if I am right in believing that they must ultimately be altogether given up, our whole import-duties would then yield only about Rx. 500,000. The truth is that cotton goods are the sole article of foreign production which the people of India now largely consume, and there is no present possibility of a large customs-revenue from anything else. Will it be possible, when cotton goods have been freed from duty, still to tax woollen goods and many other articles? And can it be believed that we should long maintain our customs establishments for the sake of obtaining the insignificant revenue that would remain?'

"The time thus foreseen came in 1882, when the prosperous condition of Indian finance enabled Major Baring (now Lord Cromer) to abolish not only the remaining Cotton-duties, but also the other General Import-duties under some 31 general heads. It will be seen from the following extracts from Major Baring's statement that the complete abolition of the General Import-duties was, in his view, largely the consequence of the 'disruptive forces' introduced by their partial abolition in 1878. The extracts are shortened by the omission of illustrations.

'214. The Tariff of 1875 was complete in itself for the purposes for which it was designed, but the practical declaration on March 18th, 1878, that a duty was indefensible if it either was *at all* protective or did not yield a sum absolutely as well as relatively large, introduced two disruptive forces into a machine not constructed to meet them, and necessarily shattered it.

'215. Apparel of many kinds, hardware, jewellery, innumerable manufactures of metal, provisions and stores of many kinds, spices, sugar, tea, tobacco, with raw silk and fabrics of silk and wool, are all made in India, some to a large extent, and every import-duty on them is protective. On what principle, again, are silk and woollen goods, or goods having cotton mixed with silk or wool, to be denied the exemption accorded to cotton goods? "The duty on *Woollen Fabrics*," the Calcutta Trades Association rightly argues, "must, if only for the sake of consistency, follow the cotton-duties."

'216. The effect of applying to individual dutiable items the objection of small receipts is equally destructive. Under the Tariff before 1878, the heads fitted into each other, so

that articles of the same general nature were taxed under one designation or another, and disputes were avoided. But the exemption of twenty-seven main heads on March 18th, 1878, introduced endless confusion and inconsistency, since certain heads were freed which were really parts of, or connected with, others left dutiable.

'217. Another objection to some of these duties is that the raw materials of industry and articles contributing to production are taxed.

'218. Nor are these the only objections to the existing Tariff. Many practical difficulties arise in giving effect to the law as it now stands. Of these difficulties I may mention a few examples.

'219. *First*, comes that of dealing with dutiable articles imported by letter post.

'220. *Secondly*, come the special claims for exemption in individual cases, such as organs and painted windows for churches, mess necessaries, volunteer uniforms, gas and water pipes, and many other articles.

'221. *Thirdly*, difficulties of definition are great and lead to much minor injustice.

'222. To sum up this branch of the subject, I submit that the General Import-duties which are still levied on thirty-one main heads, comprising many hundreds of items, not only are open to the numerous economic and practical objections which I have already enumerated, but also cause an amount of friction, scrutiny and interference with trade quite incommensurate with the net revenue they produce.

'224. Whether, therefore, we look to the Cotton-duties or the General Import-duties, it is clear that it is undesirable to maintain the present Tariff.

'225. Various methods have from time to time been suggested to remedy the anomalies of the existing system. It has been proposed to levy a low and uniform rate of duty on all cotton goods, to excise Indian cotton, or to impose a low registration fee on all imports and exports. I need not discuss the merits and demerits of these proposals, for we are fortunately in a position to adopt a more thorough and satisfactory remedy.

" This measure involved the remission of Rx. 655,000 on account of Cotton-duties and Rx. 564000 under the other heads.

" Since the year 1882 no general import-duties, with the exception of the petroleum tax, introduced by myself in 1888, have been levied in India.

" *Past Policy of Government.*

" It will be, I am afraid, very easy to confront our present proposals with assertions extracted from the Financial Statements, especially of Sir John Strachey and of Major Baring, about the impediments to trade caused by the levy of Customs-duties, and the great benefit of reducing the number of dutiable items by the exclusion of those which produce only a small amount of revenue

not enough to justify the necessary trade restrictions, or to warrant the expense of collecting. All I can say in reply is that we want the money which those statesmen did not, and that we cannot help taking a different view from that in which the duties presented themselves to Finance Ministers who were longing for a time when the ports of India might be thrown open to free trade, and watching every improvement of the financial position in the eager hope that it might lead to an early realization of their policy.

"Our circumstances now are different, and compel us to look upon Customs-revenue in the light in which it was accepted before Sir John Strachey's time. For example, Mr. Laing declared in 1861—

'We cannot dispense with Customs-duties on our imports generally, and, while this is the case, no reasonable man can object to our retaining an old accustomed duty of 5 per cent. on manufactured goods.'

"Again, in the Tariff Resolution of August 12th, 1875, this very sentence was quoted with the observation that 'the Government of India are still of opinion that a duty of 5 per cent. *ad valorem* upon cotton goods cannot practically operate as a protection to Native manufacture.'

"The following, also, is an intermediate quotation from the speech of Sir Richard Temple in 1871:—

'As regards the remark as to the spirit in which the revisions had been made, it might perhaps be inferred that the Government of India had been actuated by a severe and grasping spirit in the matter of its commercial taxation. But he ventured to affirm that any such inference would be in the highest degree unjust to the Government of India, and that this would be apparent from comparing the Customs Tariff of this country with the Customs Tariff of any other country in the world. To show that he was not singular in this view he would conclude by quoting the remarks of his predecessor, Mr. Massey, who had been for a long time Chairman of the Committees of the House of Commons, and had a very large knowledge and experience of the history of England in regard to its commercial policy. What Mr. Massey said on the last occasion when he made his financial exposition in this Council was—

"Again, it is asked, why not repeal your customs-duties? My answer to that is, our customs-duties are the lightest of any country in the world."

'After one or two remarks, as if anticipating the general objections which had just been raised, he said—

"In the like spirit, the Government will be always prepared to remove or lighten any duty which in any perceptible degree checks the prosperity or interferes with the interests of commerce, but do not sacrifice your customs-duties to the idea that you are imitating, when you would be only mimicking, the policy of Sir Robert Peel and Mr. Gladstone. The policy of these statesmen was as sound and practical as it was grand and imposing, and the customs-duties of India are adjusted on principles strictly in accord with that policy. You may keep what you have got with a safe conscience."'

"I think it must be admitted that the views of Indian Financiers even upon the theory of the question have been considerably coloured by the financial circumstances in which they found themselves, and if I now express views different from those of my masters and predecessors, Sir John Strachey and Major Baring, I do so with an expression of profound regret that it should be my lot, driven by financial stress, to propose to the Government the reversal of a policy which the former declared in 1877 and again in 1880 to be the attainment of the 'convictions of a lifetime.' I can only shelter myself under the declaration of Major Baring, when the flourishing financial condition of 1882 permitted him to close that particular chapter of Indian Finance:—

'I am, indeed, very far from saying that a free-trade policy should be carried out at all hazards. "There is not," Mr. Gladstone once said,* "a free-trade Government in this or any country which has not freely admitted that the state of the Revenue is an essential element in the consideration of the application even of the best principles of free trade." The question is essentially one of Revenue. Objectionable as is the present condition of the Tariff, we should be obliged, were our general financial position less favourable than it is, to bear for a time with some, at least, of the existing evils. But, under present circumstances, there is no necessity for withholding from India any longer the full advantages of free trade.

* Debate in the House of Commons, June 12th, 1879.

"'Present circumstances,' alas! are now changed.

"*Estimate of Revenue.*

"If we are permitted to bring into operation the Bill which I now ask leave to introduce, we reckon that it will give us an annual revenue, after allowing for charges of collection and for drawbacks, of Rx. 1,200,000. This estimate is founded upon the amounts of the imports shewn in our Trade Returns, which we anticipate will not, after the first fluctuation due to a new policy, be materially, if at all, reduced. We are naturally in a little doubt as regards the proceeds of a five per cent. duty upon silver. The consumption of silver for other purposes than coinage has been hitherto very largely supplied by melting down coined rupees, so that we have only conjectural information as to the amount that the country will absorb under the new conditions. When these settle down, and the excessive imports of the last few months have been absorbed, we may probably find two crores of rupees worth of silver subjected to our new five per cent. duty. We do not tax gold.

"*Petroleum-duty.*

"We have also to propose a special duty in the case of petroleum, including kerosine oil.

"The duty on petroleum, imposed in 1888, was half an anna per gallon, and was then reckoned at about eight per cent. It is still about eight per cent. on the whole, for, by the trade returns of 1892-93, the whole importation of India was reckoned at a value of 25 millions rupees for 64 million gallons, or 6¼ annas per gallon. The net yearly duty since the tax was imposed has been Rx. 116,637, Rx. 160,451, Rx. 163,431, Rx. 172,544, and Rx. 201,071.

"Kerosine, it is admitted, is becoming cheaper and cheaper, and its cost now, including the present taxation, is less than it was before that taxation was imposed. I think it is pretty well agreed that it can easily bear twice its present rate of duty, and this we propose to impose upon it, by substituting an anna per gallon for the present entry of half-an-anna, in the schedule of our Tariff Bill.

"This increase of duty will bring us in a further annual sum of Rx. 200,000 and increase the revenue arising from the measures now proposed to the Council, from Rx. 1,200,000 to Rx. 1,400,000 a year."

The Motion was put and agreed to.

The Hon'ble MR. WESTLAND also introduced the Bill. He said:—

"The Indian Tariff Act which at present stands upon the Statute Book is an Act of 1882, which has been successively amended by changes and alterations introduced by Acts II of 1887, II of 1888, VIII of 1889, XII of 1890, I of 1892 and IX of 1893. We propose, as we are now taking up the whole subject, to repeal these Acts, and to re-enact them in a new Act, which will be called the Indian Tariff Act of 1894.

"The present Bill therefore reproduces, practically word for word, the Act of 1882, as amended, the changes being confined to (1) a verbal alteration of sections 3 and 5, in their reference to the schedules, and (2) the addition of section 11.

"The schedules in the existing Act are two in number—one for import-duties and one for export-duties. We have judged it more convenient to set forth the import-duties in three separate schedules. Of these the first relates to Arms and Ammunition, and reproduces the first part of the schedule under the existing Act. The second refers to the articles which are specially taxed, namely, Liquors, Opium and Salt, the duties on which are regulated by considerations which lie outside questions of Customs-duty proper; this second schedule also is a reproduction of the existing Act, with two exceptions. We have provided against the practice which now exists in some places of importing

what is practically spirit in the disguise of wine by adding to the word 'wines' the restriction 'not containing more than 45 per cent. proof spirit.' We have also extended the taxation of salted fish (which is salt in another form) to the whole of India, that article being now subject to duty only in Burma, where it was made dutiable last year in order to prevent unfair competition with the local fish-curing industry. The duty will be levied at the same rate as in Burma.

"The third schedule, that of the General-duties, is that which mainly comes before the Council as a new enactment.

"The concluding schedule is Schedule III of the existing Acts, declaring the export-duty upon rice, and this schedule is left untouched, as we have no new export-duties to propose.

"We also take the opportunity of making the power, which Local Governments possess under the Customs Act, to make exemptions in certain cases, subject to the previous sanction of the Governor General in Council. It is not desirable that differences of practice in these matters should exist at the different ports of entry. We at present ensure this by executive instructions, but consider it expedient that the law should not give powers the exercise of which has created, and might in future create, inconvenience.

"In order to consider the details of a proposed re-imposition of import-duties, we take as our starting point the Tariff of 1875, whose history I have already narrated and which Major Baring, even at the time of dealing it its death-blow, admitted 'was complete in itself for the purposes for which it was designed.' Assuming that it is not necessary to argue the point that any re-imposition now proposed should follow the lines of a measure which was the result of so much examination and consideration, I note the points in which present proposals differ from it.

"First of all, as already stated, the questions of liquor, salt, opium and arms and ammunition, lie outside any present proposals.

"Next, I have to note that as our necessities are great, we are obliged to cast our net very wide, and we propose to include some items which were not in the 1875 Tariff. Of these I note—

"*Agricultural Implements.*—Agricultural machinery is exempt as machinery.

"*Metals.—Silver.*—This was not included in the Tariff of 1875, for obvious reasons. Silver is a new commodity and should bear its tax of 5 per cent. like other metals.

"*Raw Materials.*—The following were excluded, chiefly as petty items, but are now restored:—

"Hides and Skins, Lac, Stone and Marble, Tallow, Wax, Wood and Timber.

"Jewellery (precious stones and pearls, unset). Exempted in 1875 on account of the facility of evasion. It is necessary on the same grounds to exempt these items again.

"*Manufactured Articles.*—Jute and Lac were excluded in the 1875 list: these are now brought in. Glass bottles used for excisable liquors and aerated waters were also specially exempted. We do not continue this exemption. Uniforms will have, as in 1875, to be exempted under wearing apparel.

"I have already noticed the fact that iron and articles made of iron paid under the 1875 Tariff only one per cent., with the exception of wire and some unspecified 'other sorts,' which came under the 5 per cent. rate. The Tariff Committee of 1875 proposed to raise this duty to 2 per cent., but the Government did not accept their recommendation. The conditions of trade have since then changed, and steel, which bore a duty of £5 per cent., is now being extensively substituted for iron. It is not expedient to protect iron as against steel, and we therefore discontinue the exception in its favour.

"*Railway Material* was not altogether exempt in 1875, but was exempted in 1878. We continue the exemption.

"In this general schedule, besides doubling the existing duty on Petroleum, we have discontinued the exemption in favour of batching or lubricating petroleum, which will in future be dutiable at half the rate applying to other kinds of Petroleum.

"I wish to add a few remarks in justification of our retaining on our proposed lists a number of items which produce a comparatively small revenue. I think it is easy to exaggerate the relief which the exclusion of such items brings about. It must be remembered that every package of goods which is imported has to 'pass the customs,' and the shipping documents relating to every package go through certain formalities. We cannot avoid this at present for the purposes of trade statistics and of the Merchandise Marks Act. The payment of the duty is only one item in the formalities which surround the process of importation, and the abolition of such payment is not an abolition of formalities and restrictions, but only the cessation of one item among them, although no doubt an important and burdensome item. If we find any articles

in our import list which are the subject of a special trade, passing along special channels, the abolition of the duties affecting them would be a material relief which would be felt in the trade affected; and we propose on this ground to exempt fresh 'fruits and vegetables.' But, when an ocean-going steamer brings a general cargo into port, the formalities and restrictions which surround the delivery of that cargo are not so very materially diminished by exempting from duty the packages which contain the more rarely imported articles.

"When we are proceeding towards the general abolition of a Tariff, it is wise to begin by excluding the less important items, because the amount of reduction permissible at each step is thus made to cover as large an area as possible. But, as that is not our present position, I am not inclined to admit the argument that, in the case of some of the less productive items, the revenue derived is too small to warrant the cost and trouble of collection. And it was well shewn by Major Baring, in his Financial Statement of 1882, that the abolition of some items, and the retention of others in a general list, led to innumerable difficulties in the way of deciding, in the case of specific articles, whether they came within the duty-free or the dutiable classes.

"An important part of every Tariff Bill is the valuation which is made for purposes of calculation of duty upon every article that does not embrace so many varieties as to necessitate the levy of a duty '*ad valorem*.' These valuations, if they are to be fair to the merchants and consumers on one side, and to the Government on the other, require to be periodically revised and brought into accord with current prices. The valuations of 1871 were, as above noted, revised by a very strong Committee in 1875; again in 1879 it was determined that a yearly revision should be made by a small Committee of three persons,—one being the Collector of Customs at Calcutta,—on the basis of returns of prices systematically collected during the year at the principal ports. The first of these systematic revisions was made in 1880; but the subject necessarily dropped when the duties were abolished in 1882.

"It is not possible to make this systematic revision of Tariff valuations in re-introducing the import-duties,—that is, we cannot, for obvious reasons, before introducing the Bill, have a Committee publicly sitting upon the subject. We have made the valuations we now propose by the help of our Collectors of Customs and our best appraisers at Calcutta and at Bombay. The examination of these valuations will have to be made in Select Committee, and we hope to arrange the means of its being effectively done.

"Now, as regards procedure, it is to be noticed that it is customary to pass Bills affecting the Tariff through the Legislature in as short a time as possible.

Any other course involves the disturbance to trade caused by the knowledge that at some future and unfixed date the cost of the goods to the merchants will be arbitrarily changed. This anticipation has, as I am informed by the Chambers of Commerce both at Calcutta and at Bombay, already been effective in greatly paralyzing trade at the commercial centres of India. I have been urged by both these bodies to restore the course of trade by announcing as soon as possible the intentions of the Government; and, now that I have announced them, I am anxious to bring to an end as soon as possible that intermediate state of disturbance which must continue until the new tariff is brought into effect.

"The Tariff Bill of 1875 was introduced by Mr. Hope, at a sitting of the Legislative Council at Simla, on 5th August, 1875, and it was passed at a single sitting, by suspension of the Rules for the Conduct of Business.

"Again, in 1882, two Bills were introduced by Major Baring, one relating to Customs-duties, and one relating to Salt, on 8th March. The rules for the Conduct of Business were suspended in each case in order to enable two stages of the Bill to be taken up on that day. Two days later, that is, on March 10th, these two Bills were 'taken into consideration,' and by another suspension of the rules were passed.

"I propose, therefore, after the Council has heard any criticisms which Hon'ble Members may desire, at such short notice, to offer upon our policy, to ask Your Excellency to suspend the Rules of Business in order that the Bill may be at once referred to a Select Committee. The Committee will, I hope, sit *de die in diem* until its examination of the Bill is complete."

The Hon'ble MR. PLAYFAIR said:—"My Lord, the Bill introduced to the Council by the Hon'ble Member is one of very great importance, not only to the mercantile interest, but to the whole community of this great Empire. I am glad that the Government have not delayed any longer in making known the intentions of their financial policy, and I acknowledge this as a response to the representations they have received from the Chambers of Commerce. As I understand Members will have the opportunity of discussing this measure in Council after it comes from the hands of the Select Committee, I shall reserve further remarks until then. I hope it may be permissible for the Members of the Select Committee about to be appointed to propose amendments, it may be to exclude certain commodities from the list given by the Hon'ble Member, or to include commodities that do not appear on this list. In connection with the latter suggestion I refer specially to the re-imposition of what are known as the Cotton-duties, which a large section of the mercantile community have

no hesitation in considering should be brought about if imports have to be taxed—a tax that can be easily and accurately levied. The probable income to be derived from this source would not only meet the cost of exchange compensation to European officers to which the Hon'ble Member has referred, but in all probability would in addition leave a balance to meet other requirements of the State. With these few observations, my Lord, I beg to reserve further remarks upon this very important Bill now before this Council."

The Hon'ble MR. WESTLAND said that, with regard to the remarks that had been made by the Hon'ble Mr. Playfair, he might state for his information that an import-duty on Cotton goods, if re-imposed, would yield about Rx. 1,350,000.

The Hon'ble MR. WESTLAND then asked His Excellency the President to suspend the Rules of Business for the purpose of referring the said Bill to a Select Committee.

HIS EXCELLENCY declared the Rules to be suspended.

The Hon'ble MR. WESTLAND moved that the Bill be referred to a Select Committee consisting of the Hon'ble Sir Alexander Miller, the Hon'ble Sir Charles Pritchard, the Hon'ble Mr. Clogstoun, the Hon'ble Fazulbhai Vishram, the Hon'ble P. M. Mehta, the Hon'ble Mr. Playfair and the Mover, with instructions to report by Saturday, the 10th instant.

The Motion was put and agreed to.

The Hon'ble MR. WESTLAND also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 8th March, 1894.

S. HARVEY JAMES,
Secretary to the Govt. of India,
Legislative Department.

CALCUTTA;
The 9th March, 1894.

Government of India Central Printing Office.—No. 501 L. D.—9-3-94.—316.—E. H.

APPENDIX.

Statement of net Revenue and net Expenditure of the Government of India, in India and in England, from 1878-79 to 1893-94.

Explanatory Memo.

I.—**Revenue**—Corresponds with the first Section of the Accounts, except that "Charges of District Administration" are transferred to head "Administration—Effective," and that "Portion of Land Revenue due to Irrigation" is included in this Section.

II.—**Post Office, Telegraph, and Mint**—Correspond with the third Section of the Accounts.

III.—**Net Railway Revenue.**—In the case of Guaranteed Railways, the net Traffic Receipts, less surplus profits, etc., and in the case of State Railways, the gross Receipts less working expenses, Interest being further deducted in both cases.

IV.—**Interest.**—Corresponds with the second Section of the Accounts.

V.—**Administration**—

(*a*) EFFECTIVE.—The fourth Section of the Accounts, together with "Stationery and Printing," and "Miscellaneous," under the Miscellaneous Section. "Charges of District Administration" are also added (see head I), but the Imperial part of "Marine" is omitted.

(*b*) NON-EFFECTIVE.—This includes the three heads, "Territorial and Political Pensions," "Civil Furlough and Absentee Allowances," and "Superannuations," under Miscellaneous Section.

(*c*) BUILDINGS AND ROADS.—This is the head "Civil Works" in that Section of the Accounts, as altered by the entry of "Provincial Surpluses and Deficits." As a matter of fact, Provincial Governments utilize their accumulated surpluses mostly for expenditure under this head, so that, in a rough way, it may be taken that their surpluses are provided by short expenditure and their deficits by excess expenditure under it.

VI.—**Famine.**

VII.—**Irrigation**—Includes the whole of the Irrigation Section, except "Portion of Land Revenue due to Irrigation" transferred to head I.

VIII.—**Railway construction, etc.**—This includes "Construction of Railways" (charged against Revenue in addition to that under Famine Insurance,) "Subsidized Companies Land:" and "Miscellaneous Railway Expenditure."

IX.—**Military Accounts.**—This head includes the last Section of the Account together with "Military Works" in the Buildings and Road Section, the Imperial portion of "Marine," and "Special Defences."

X.—**Exchange.**—Exchange on the net sterling expenditure plus or minus the amount shown as "Loss or Gain by Exchange" in the Miscellaneous Section.

	1878-79.	1879-80.	1880-81.	1881-82.	1882-83.	1883-84.	1884-85.	1885-86.
EXCLUDING EXCHANGE—	*Rx.*	*Rx.*	*Rx.*	*Rx.*	*Rx.*	*Rx.*	*Rx.*	*Rx.*
Revenue (net)—								
I. Principal Heads of Revenue	45,985	47,313	46,973	47,451	44 519	45,704	43,619	44,862
II. Post Office, Telegraph and Mint	—153	34	—119	—281	—200	—311	—278	—214
III. Railway Revenue	—1,031	—592	—56	781	94	723	259	1,006
TOTAL REVENUE	44,801	46,755	46,798	47.951	44,413	46,116	43,600	45,654
Expenditure (net)—								
IV. Interest	4,222	4,094	3,284	3,443	3,507	3,115	3,281	2,870
V. Administration: Effective	10,657	10.627	10,401	11,194	11,251	11.465	12,005	12,433
" Non-effective	2.399	2,620	2,734	2,731	2,796	2,825	2,782	2,897
" Buildings and Roads	3,314	3,079	3,131	4.934	2,639	3.802	3,184	3,450
VI. Famine	313	104	35	1.568	1,495	1,523	1.548	1,500
VII. Irrigation	929	904	1,070	1,050	1,179	1,082	1.040	1,278
VIII. Railway Construction, etc.	220	1,813	2,390	502	743	—251	401	775
IX. Military Account	17.495	21,785	25,061	16,422	17,012	17,361	16,394	19,188
TOTAL EXPENDITURE	39,549	45.026	48,156	41,844	40,622	40,922	40,635	44,391
Surplus, excluding Exchange	5,252	1,729	—1.358	6,107	3.791	5,194	2,965	1,263
X. EXCHANGE	—3,118	—2,957	—2,273	—2,512	—3,116	—3,314	—3,352	—4,065
Final Surplus +, Deficit —	+2,134	—1,228	—3,631	+3,595	+675	+1,880	—387	—2,802

DETAILS OF SOME OF THE

I.—Principal Heads of Revenue—								
Land Revenue (including that due to Irrigation).	20,166	20,230	19,674	20,163	20,049	20,217	19,721	20,481
Opium	7,699	8,250	8,451	7,803	7,217	7,701	5,850	5,885
Salt	6,297	6,571	6,218	6,488	5,303	5.266	5,632	5.476
Stamps—Court-fees and Plain Paper	2,134	2,125	2,167	2,278	2,278	2,390	2,461	2,484
" Other Items	826	921	942	955	942	974	970	1,001
Excise	2,526	2,713	3,000	3,289	3,458	3,682	3,849	3.971
Provincial Rates	2,545	2,827	2,721	2,829	2,613	2,813	2.735	2,908
Customs	2,046	2,012	2,264	2,079	1,074	1,002	853	1,022
Assessed Taxes	837	697	507	495	484	497	484	473
Forest	148	208	237	313	366	400	306	404
Registration	106	103	106	104	100	91	107	121
Tributes	655	656	686	655	635	671	651	636
TOTAL	45,985	47.313	46,973	47.451	44.519	45.704	43,619	44,862
V.—Administration—Effective—								
Administration:								
General Administration	1,503	1,499	1,537	1.494	1,564	1,598	1,610	1,650
District Administration	1.491	1,495	1,521	1,525	1,574	1,615	1,619	1,644
Total Administration	2,994	2,994	3,058	3,019	3,138	3,213	3.229	3,294
Law and Justice	2,689	2,662	2,561	2.556	2,598	2,665	2,760	2.775
Police	2,213	2,270	2,285	2,306	2,415	2,449	2 513	2,532
Marine (excluding Imperial Marine)	26	6	3	25	24	31	12	8
Education	838	828	829	889	948	980	1,036	1,042
Ecclesiastical	155	156	159	162	161	159	166	164
Medical	627	614	624	643	637	661	690	691
Political	449	430	531	650	514	533	791	1,140
Scientific, and other Minor Departments	272	259	323	441	406	379	369	397
Stationery and Printing	409	357	418	508	450	435	466	432
Miscellaneous	—15	51	—384	—5	—40	—40	—57	—42
TOTAL	10,657	10,627	10,401	11,194	11,251	11,465	12,005	12,433
IX.—Military Account—								
Army: Effective	12,914	13,236	13,026	12,984	12,239	11,878	11,002	12,789
" Non-effective	2,603	2,767	2,737	2,933	3,000	4,079	3,136	2,476
" War Charges	600	4,630	8,101	—877	609	63	162	2,726
Total Army	16,117	20,633	23,864	15,040	15,848	16,020	15,200	17,991
Marine (Imperial)	227	224	265	361	244	367	286	271
Military Works	1,151	928	932	1,021	920	974	908	926
Special Defences	...	...	...	...	...	...	...	...
TOTAL	17,495	21,785	25,061	16,422	17,012	17,361	16,394	19,188
X.—Exchange—								
Principal Heads of Revenue	10	9	7	8	11	8	13	18
Post Office, Telegraph and Mint	34	41	34	33	41	49	69	118
Railway	997	958	930	1,003	1,120	1,103	1,173	1,595
Interest	548	541	435	507	564	553	626	762
Administration: Effective	95	68	72	79	109	96	107	132
" Non-effective	323	302	315	311	351	368	376	503
" Buildings and Roads	17	25	15	17	15	16	12	16
Famine	...	...	...	...	...	...	...	...
Irrigation, and Railway Construction, etc.	11	60	152	85	24	...	...	...
Military Accounts	857	874	305	378	816	1,182	988	1,19
TOTAL	2,892	2,878	2,265	2,421	3,051	3,375	3,364	4,329
Add or Deduct for "Loss by Exchange" or "Gain by Exchange"	226	79	8	91	65	— 61	—12	—264
NET TOTAL EXCHANGE	3.118	2,957	2,273	2,512	3.116	3,314	3,352	4,065
Average rate of Exchange for Council Bills	1—7'794	1—7'961	1—7'956	1—7'895	1—7 525	1—7'536	1—7'308	1—6'254

net Revenue and net Expenditure.

[In thousands of Rx.

1886-87.	1887-88.	1888-89.	1889-90.	1890-91.	1891-92.	1892-93.	Budget, 1893-94.	
Rx.	*Rx.*	*Rx.*	*Rx.*	*Rx.*	*Rx.*	*Rx.*	*Rx.*	**EXCLUDING EXCHANGE—**
								Revenue (net)—
47,373	47,998	49,198	52,707	52,143	52,869	54,594	53,218	I. Principal Heads of Revenue.
—33	73	179	186	320	256	375	265	II. Post Office, Telegraph and Mint.
937	243	496	882	1,361	2,264	1,614	1,747	III. Railway Revenue.
48,277	48,314	49,873	53,775	53,824	55,389	56,583	55,230	TOTAL REVENUE.
								Expenditure (net)—
2,679	3,309	2,694	2,351	2,497	2,315	2,055	1,683	IV. Interest.
12,919	13,206	13,478	13,535	13,821	14,277	14,411	14,754	V. Administration: Effective.
2,737	2,762	2,776	2,818	2,877	2,984	3,123	3,110	" Non-effective.
3,612	4,010	3,891	4,177	3,685	4,145	3,830	3,522	" Buildings and Roads.
309	91	78	600	600	1,268	1,114	1,160	VI. Famine.
1,251	1,350	1,393	1,352	1,279	1,346	1,243	1,338	VII. Irrigation.
322	177	121	223	180	288	357	211	VIII. Railway Construction, etc.
18,914	19,825	19,538	19,983	20,317	21,504	21,608	21,412	IX. Military Account.
42,743	44,730	43,969	45,039	45,256	48,127	47,741	47,190	TOTAL EXPENDITURE.
5,534	3,584	5,904	8,736	8,568	7,262	8,842	8,040	Surplus, excluding Exchange.
—5,356	—5,612	—5,867	—6,124	—4,880	—6,794	—9,675	—9,635	**X. EXCHANGE—**
+178	—2,028	+37	+2,612	+3,688	+468	—833	—1,595	Final Surplus +, Deficit —

IMPORTANT HEADS GIVEN ABOVE.

								I.—Principal Heads of Revenue—
21,221	21,308	21,161	22,048	22,107	21,938	22,105	23,064	Land Revenue (including that due to Irrigation).
6,214	6,089	5,963	6,947	5,694	6,146	6,381	5,056	Opium.
5,752	5,823	6,816	7,328	7,644	7,724	7,812	7,682	Salt.
2,564	2,623	2,625	2,734	2,690	2,843	2,969	2,952	Stamps—Court-fees and Plain Paper.
1,012	1,069	1,126	1,187	1,214	1,249	1,303	1,304	" Other Items.
4,188	4,345	4,505	4,667	4,704	4,861	4,976	4,876	Excise.
2,942	2,965	2,978	3,348	3,433	3,439	3,643	3,649	Provincial Rates.
1,062	1,167	1,153	1,296	1,541	1,503	1,386	1,404	Customs.
1,277	1,383	1,478	1,554	1,572	1,609	1,640	1,642	Assessed Taxes.
383	402	556	704	659	641	725	597	Forest.
113	123	137	160	168	191	216	207	Registration.
645	701	700	734	717	725	738	725	Tributes.
47,373	47,998	49,198	52,707	52,143	52,869	54,594	53,218	TOTAL.
								V.—Administration—Effective—
1,641	1,657	1,633	1,651	1,659	1,683	1,718	1,727	Administration:
2,022	2,029	2,021	2,049	2,068	2,209	2,245	2,272	General Administration.
								District Administration.
3,663	3,686	3,654	3,700	3,727	3,892	3,963	3,999	Total Administration.
2,809	2,851	2,933	2,928	2,992	3,052	3,108	3,146	Law and Justice.
2,969	3,343	3,401	3,521	3,490	3,487	3,478	3,589	Police.
9	13	38	91	48	56	68	103	Marine (excluding Imperial Marine).
1,097	1,067	1,082	1,114	1,167	1,213	1,226	1,303	Education.
159	159	156	161	166	162	168	172	Ecclesiastical.
690	703	708	725	714	820	866	880	Medical.
743	672	742	644	763	757	828	822	Political.
366	348	347	343	402	484	361	367	Scientific, and other Minor Departments.
430	459	431	468	484	501	535	518	Stationery and Printing.
—16	—95	—14	—160	—132	—147	—190	—145	Miscellaneous.
12,919	13,206	13,478	13,535	13,821	14,277	14,411	14,754	TOTAL.
								IX.—Military Account—
14,646	15,104	14,342	14,657	15,072	15,770	16,140	16,143	Army: Effective.
2,573	2,683	2,799	2,899	2,996	3,017	3,245	3,127	" Non-effective.
...	15	374	421	399	752	257	174	" War Charges.
17,219	17,802	17,515	17,977	18,467	19,539	19,642	19,444	Total Army.
552	403	281	317	248	291	457	390	Marine (Imperial).
873	1,189	1,061	1,089	1,169	1,160	1,127	1,151	Military Works.
270	431	681	600	433	514	382	427	Special Defences.
18,914	19,825	19,538	19,983	20,317	21,504	21,608	21,412	TOTAL.
								X.—Exchange—
19	24	24	16	12	16	21	27	Principal Heads of Revenue.
85	99	81	77	65	110	144	154	Post Office, Telegraph and Mint.
1,987	2,268	2,629	2,517	1,863	2,454	3,443	3,604	Railway.
961	1,387	1,176	1,017	767	1,121	1,450	1,489	Interest.
158	183	177	166	111	164	240	251	Administration: Effective.
632	725	811	780	577	813	1,171	1,203	" Non-effective.
24	28	34	39	22	31	35	37	" Buildings and Roads.
...	...	...	...	...	1	2	...	Famine.
...	...	...	...	...	...	...	...	Irrigation, and Railway Construction, etc.
1,464	1,642	1,886	1,899	1,542	2,115	3,189	3,050	Military Accounts.
5,330	6,356	6,818	6,511	4,959	6,825	9,695	9,815	TOTAL.
26	—744	—951	—387	—79	—31	—20	—180	Add or Deduct for "Loss by Exchange" or "Gain by Exchange."
5,356	5,612	5,867	6,124	4,880	6,794	9,675	9,635	NET TOTAL EXCHANGE.
1—5·441	1—4·898	1—4·379	1—4·566	1—6·089	1—4·733	1—2·984	1—2·75	Average rate of Exchange for Council Bills.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Government House on Thursday, the 8th March, 1894.

PRESENT:

His Excellency the Viceroy and Governor General of India, P.C., L.L.D., G.M.S.I., G.M.I.E., *presiding.*
His Honour the Lieutenant-Governor of Bengal, K.C.S.I.
His Excellency the Commander-in-Chief, K.C.B., G.C.I.E., V.C.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble J. Westland, C.S.I.
The Hon'ble Sir A. P. MacDonnell, K.C.S.I.
The Hon'ble Dr. Rashbehary Ghose.
The Hon'ble Fazulbhai Vishram.
The Hon'ble C. C. Stevens.
The Hon'ble A. S. Lethbridge, M.D., C.S.I.
The Hon'ble Gangadhar Rao Madhav Chitnavis.
The Hon'ble H. F. Clogstoun, C.S.I.
The Hon'ble W. Lee-Warner, C.S.I.
The Hon'ble P. Playfair.
The Hon'ble Mahárájá Partab Narayan Singh of Ajudhiá.

PRISONS BILL.

The Hon'ble SIR ANTONY MACDONNELL said:—"With Your Excellency's permission I should like to make a representation to the Council.

"The Select Committee on the Bill to amend the law relating to Prisons have now completed their alterations, the Bill has been amended, and the Report of the Committee is being drafted. It is usual not to publish a Bill which comes from the Select Committee until it has been presented to Council, but, if the usual procedure is followed in the present instance, the Bill if passed into law this session will be before the public for a week less than it would

be if a departure from the usual procedure were sanctioned and the Bill published before its presentation to the Council. I therefore beg Your Excellency and the Council to sanction a departure from the usual custom upon this occasion, and allow the Bill to be published in the Gazette of India on Saturday next, though the Report will not, by that date, have been presented."

His Excellency THE PRESIDENT said that he thought it would be for the convenience of the public that the suggestion of the Hon'ble Member should be adopted.

The proposal to publish the Bill as suggested in the Gazette of India of Saturday, the 10th March, was put and agreed to.

QUESTION AND ANSWER.

The Hon'ble MAHÁRÁJÁ PARTÁB NARAYAN SINGH OF AJUDHIÁ asked:—

Whether the Government of India will reconsider the question of providing closet accommodation in each passenger train by attaching a latrine carriage for the benefit of the third class passengers, who, under the existing system, are put to considerable discomfort and inconvenience.

The Hon'ble SIR CHARLES PRITCHARD replied:—

"The question of the extent to which the provision of latrine accommodation on passenger trains should be made compulsory was carefully examined by this Council at the time when the Indian Railways Act, 1890, was under its consideration, and the result of the Council's deliberations is embodied in section 64 of that Act. Latrine accommodation is now provided on all railways to the full extent required by law. The Government of India, as at present advised, does not propose to proceed to fresh legislation on the subject."

INDIAN STAMP ACT, 1879, AMENDMENT BILL.

The Hon'ble MR. WESTLAND moved that the Report of the Select Committee on the Bill to amend the Indian Stamp Act, 1879, with respect to Policies of Sea-insurance and Sale-certificates, be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. WESTLAND also moved that in division (*a*) of article 49 of Schedule I of the Act proposed to be substituted by section 3 of the Bill, as amended, for the figures "0 3 0" where they occur opposite the words "where the insurance shall be made for any time not exceeding six months" the figures "0 2 0" be substituted; and for the figures "0 6 0" where they occur opposite the words "where the insurance shall be made for any time exceeding six months and not exceeding twelve months" the figures "0 4 0" be substituted. He said:—

"I have, with the consent of the Members of the Select Committee, to propose an amendment in the rates of stamp-duty specified in the Bill, which it was considered desirable should be proposed in Council and not effected in Committee.

"The whole object of the Bill is to remove all inducement to insurers to place their insurances with Companies in England instead of with Companies in this country, and with that object we copied, in the differentiation of the stamp-duties on the policies, the words of the English Act. In the two last specified cases—those applicable to time insurance—the rates in the English Act are 3*d.* per £100 for insurances up to six months, and 6*d.* for insurances up to twelve months, being respectively one eight-thousandth and one four-thousandth of the maximum insurable at each rate. The corresponding rates in India would be 2 annas and 4 annas per R1,000 insured, and the Select Committee agreed that it was desirable, on the principle on which the Bill is based, that these should be adopted in lieu of the higher rates of 3 annas and 6 annas stated in the Bill.

"I propose, therefore, that the amendment be made."

The Motion was put and agreed to.

The Hon'ble MR. WESTLAND also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

PRISONERS ACT, 1871, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER moved that the Report of the Select Committee on the Bill to amend the Prisoners Act, 1871, be taken into consideration. He said:—"When I moved for leave to introduce this Bill I mentioned that it was only intended to meet two or three difficulties which had been found in the working of the Prisoners Act as regarded the dealings

with British Courts and Tribunals in Native States. However, when it came before the Select Committee it was thought desirable somewhat to extend the scope of the Bill, but not, I think, in any manner not germane to its original intention; and accordingly two clauses have been put in at the end, and substituted for sections 30 and 32 of the Act as it stands, in order that those sections may apply not only to persons sentenced to imprisonment but to persons sentenced to transportation, as to the removal of whom from one place to another some difficulty has been experienced. With that exception, and also that we have, in deference to a suggestion of the Hon'ble Member in the Home Department, acquiesced in by the Foreign Department of the Government of India, substituted the expression 'under the suzerainty of Her Majesty', in speaking of the subordinate Princes and States, for the expression 'in alliance with Her Majesty', the Bill is practically the same as it was when referred to the Select Committee."

The Motion was put and agreed to.

Ths Hon'ble SIR ALEXANDER MILLER also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

The Council adjourned to Saturday, the 10th March, 1894.

CALCUTTA;
The 12th March, 1894.

S. HARVEY JAMES,
Secretary to the Government of India,
Legislative Department.

Government of India Central Printing Office.—No. 529 L. D.—13-3-94.—320.—E. H.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Government House on Saturday, the 10th March, 1894.

PRESENT:

His Excellency the Viceroy and Governor General of India, P.C., LL.D., G.M.S.I., G.M.I.E., *presiding.*

His Honour the Lieutenant-Governor of Bengal, K.C.S.I.

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The Hon'ble J. Westland, C.S.I.

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The Hon'ble Fazulbhai Vishram.

The Hon'ble C. C. Stevens.

The Hon'ble A. S. Lethbridge, M.D., C.S.I.

The Hon'ble Sir Luchmessur Singh, K.C.I.E., Mahárájá Bahádur of Durbhanga.

The Hon'ble Gangadhar Rao Madhav Chitnavis.

The Hon'ble H. F. Clogstoun, C.S.I.

The Hon'ble W. Lee-Warner, C.S.I.

The Hon'ble P. Playfair.

The Hon'ble Mahárájá Partab Narayan Singh of Ajudhiá.

NEW MEMBER.

The Hon'ble THE MAHÁRÁJÁ OF DURBHANGA took his seat as an Additional Member of Council.

INDIAN TARIFF BILL.

The Hon'ble MR. WESTLAND presented the Report of the Select Committee on the Bill to amend the law relating to Customs-duties, and for other purposes. He said:—

"The only alteration which the Select Committee have made in the substantive part of the Bill is to amend the section which relates to import from, and export

to, foreign European settlements in India. The section hitherto has applied only to those foreign settlements which lay upon the sea-coast, being intended to prevent the use of those settlements as untaxed ports of entry into India. In the more general form which we have now given to the section, Chandernagore will also be included, not that it is intended to take any active measures to erect a customs-barrier around it, but that the Government may possess the legal power to prevent the territory in question being used as a means of evasion of the duties imposed by the present Act.

"The tariff we have very carefully gone through in detail. The main alterations I shall mention in order. First, we have found it necessary to abandon the proposal I made when I introduced the Bill to impose the full five per cent. duty upon iron. Since the days of the tariff of 1875, at least four large businesses of machinery manufacture have been established in India. Now, imported machinery we all accept it as necessary to exempt; any other course would be a tax on capital, and would be a tax upon our own manufactures and a protection to competitors outside India. But, if we allow machinery to be imported free, it is obviously impossible to tax at five per cent. the materials out of which our own machinery manufacturers construct their machines. It seemed to us there was no way out of the difficulty but to reduce the tax on iron, and with it that on steel, to its old figure of one per cent.

"The next main alteration is that we have included paper among the articles that have to pay duty. This was recommended to us in more than one quarter, among others by the Calcutta Trades Association, and upon consideration we saw no good reason why this particular article should have a special exemption.

"We received a representation regarding that variety of petroleum which is used for batching, in which objection was taken to imposing upon it a special rate of duty. We admitted the objection and applied to it the general rate of five per cent.

"We have received some other representations regarding particular articles on the tariff. We have judged these matters solely from a revenue point of view—that is, we have not admitted as a ground for exemption the mere fact that it was possible to urge that the article taxed was, in some of its uses, applied as the raw material of an Indian industry. On the other hand, we have steadily

refused to listen to exhortations to regulate duties so as to produce some particular effect in changing or influencing the course of trade.

"As regards the tariff valuations, we addressed enquiries by telegram to the Chambers of Commerce and Trades Associations. All or most of them have responded by stating that after examination they had no exception to take to them—a remarkable testimony to the judgment and carefulness of Mr. O'Conor, to whose charge were committed the enquiries upon which these valuations were drawn up. In a few cases we have accepted the suggestions of merchants who preferred an *ad valorem* rate to a tariff valuation. But in not a single instance have we found reason to alter the valuations originally entered.

"Tariff values are things that necessarily fluctuate and require periodical correction; but power is given by the Sea-customs Act to the Governor General in Council to alter tariff values from time to time by notification, and it is understood that this power will be used by having them periodically examined by a competent committee.

"I do not think there is any other point in the Select Committee's Report to which it is necessary for me to call the attention of the Council."

The Hon'ble MR. WESTLAND moved His Excellency the President to suspend the Rules of Business to admit of the Report of the Select Committee being taken into consideration.

His Excellency THE PRESIDENT declared the Rules to be suspended.

The Hon'ble MR. WESTLAND moved that the Report of the Select Committee be taken into consideration. He said that he would reserve any remarks which it might be necessary for him to make till after Members of Council had had an opportunity of expressing their views.

The Hon'ble MR. PLAYFAIR moved as an amendment to the Hon'ble Mr. Westland's motion that the Bill be recommitted to the same Select Committee. He said:—"My Lord, the statement laid before this Council on Thursday, the 1st instant, by the Hon'ble Member in charge of this Bill discloses an estimated deficiency in the Budget of 1894-95 of 3½ crores of rupees, while the provisions for increased taxation under this Bill do not amount to more than an estimated income of 1 crore and 40 lakhs. Speaking for myself, I am wholly in the dark as to how the Government intend to meet the balance amounting to over two crores, and without a more complete statement it is difficult to grasp the situation. I invite the Hon'ble Member to disclose his entire programme and ex-

plain how the balance to make up the large sum of Rs. 3½ crores is to be met: and, with regard to the rate of exchange calculated at 1*s.* 2*d.* per rupee, to declare the amount of Council bills the Secretary of State contemplates selling, and his intentions regarding the adjustment of arrears. Meanwhile I confine my remarks to the income to be provided from custom-duties.

"I have no desire, my Lord, to add to the harassment that besets the Government of India in connection with the present position of its finances, but I felt it to be my duty to record my dissent in the Report of the Select Committee as to the exclusion of duties upon cotton piece-goods, yarns and threads from the tariff schedule attached to this Bill. If taxation upon imports has become a necessity, I am strongly of opinion that this should be levied without any exception or favour to any particular branches of trade. It was stated in this Council some years ago that the arguments in favour of abolishing the general import-duties were even stronger than those which could be adduced in respect to the abolition of the cotton-duties; that the maintenance of the general import-duties, if the cotton-duties were abolished, would, from every point of view, be open to great objection. It was further admitted that the general import-duties involved an amount of friction, scrutiny and interference with trade incommensurate with the revenue produced at that time, and that their maintenance was inadvisable if cotton-duties were abolished. I hold, my Lord, that the same arguments apply to-day, and I go further and maintain that friction may grow into an angry controversy, arising from what may have the appearance of an antagonism of interests between this country and England, if a preference is now shown to the cotton manufacturers by exempting their goods from import taxation at a time when this country finds difficulty in discovering ways and means to meet its financial engagements. It is inexplicable, from purely fiscal considerations, why woollens from Bradford, iron from Stafford, hardware from Birmingham and umbrellas from Glasgow should become subject to tariff, while cottons from Manchester pass in free.

"The present taxation, we have been told, is necessitated by the fall in the value of silver, which we know England has declined to attempt to arrest. India's difficulties will be aggravated if she is forbidden to use the means most suitable to extricate herself from them. The position that the Government of India now occupies is one of some delicacy as well as of difficulty, for the taxation now proposed will do little more than enable them to pay compensation to their officers and servants on account of the fall in the value of their incomes. I recognise this charge to be a burden which our finances have to suffer in connec-

tion with the depreciation of silver, to retain for the Empire all the advantages of intelligence, strength and energy, on which good administration and commercial prosperity depend. This compensation is not to be grudged to an overworked and self-sacrificing body of public servants. But I can quite understand that a feeling of dissatisfaction may arise if the payment of this compensation becomes unduly onerous through the system of taxation adopted to provide the amount required.

" The volume of trade in cotton goods and yarns, imported into this country and which under this Bill are exempted, amounts to fully 28 crores of rupees, which is equal to about one-half of the total imports from abroad. The Hon'ble Member has admitted that a five per cent. duty upon the cotton-imports would probably yield about Rx. 1,350,000, and if, therefore, the Government decide to limit taxation on all imports to a fixed sum of 1 crore and 40 lakhs, the duty upon total imports, excluding salt and liquor but including cotton goods, would not exceed two and a half per cent. of the value. Such a tariff, or even a tariff of double this amount, namely, five per cent., cannot be considered a protective tariff to Indian manufacturers, nor can it be classed as an objectionable duty when raised solely for the purposes of revenue. Therefore there is to hand, without prejudice to anyspecial interests, an income from imports sufficient to meet the prospective wants of the State during the coming financial year, and without endangering the progress and efficiency of the Empire. The amount of import-duty would be so moderate that merchants and dealers in cotton fabrics have frankly said it would not affect trade, and some have stated that the repeal of the duties on cotton goods in 1878 and in 1882 made no difference whatever in their volume of business. I do not say that the tax is desired by importers and dealers, for all people are averse to taxes, and to quote Burke's famous saying : ' It is as difficult to tax and to please as it is to love and be wise ; ' but I maintain that the trade will not object to the imposition of such duties if the income is required for the purposes of the revenue. And I take it that these merchants—who in many instances are agents for the manufacturer—find, as was stated in this Council Chamber thirty-four years ago by no less an authority than a previous Finance Minister, the Hon'ble Mr. Wilson, that an import-duty adds to the cost and is a tax on the consumer, and so long as it is not unduly high to limit trade it is of no inconvenience to the trade. The consumer is not likely to take exception to such a moderate rate of taxation as I have referred to, when the perfect equity of the system of taxation becomes known, and when it is understood that every member of the community from the Governor General downwards to the humble raiyat will con-

tribute equally his share to these taxes. The incidence of taxation at five per cent. *ad valorem* on cotton-imports would not amount to more than nine pies or three farthings per head per annum, an infinitesimal amount which could be raised with ease and accuracy and would be based on that fundamental principle that the tax which each individual in this country is bound to pay ought to be certain and not arbitrary and should not leave the tax-payers in doubt as to the true amount due from them and thereby facilitate arbitrary and illegal exactions on the part of the tax-gatherer. My proposal now before this Council provides a system of meeting the liabilities of the Empire that the general body of tax-payers prefer, who after all are the parties chiefly interested, and who not only deserve consideration but demand it, and whose grievance will not disappear until they get it. Surely, my Lord, it would be unfortunate to place a measure on the statute-book which runs counter to the wishes of the people and to the public sense of justice, and which in such conditions must prove untenable.

"My Lord, I am aware, as quoted by the Hon'ble Member in charge of the Bill, that the opinion was expressed by the Hon'ble House of Commons many years ago that the duties then levied upon cotton manufactures imported into India were protective in their nature and should be repealed so soon as the financial condition of India permitted; and that Lord Salisbury then impressed this upon the Government of India, hoping that so soon as the finances permitted a reform would be made in this branch of the tariff. This we are aware was given effect to whenever the finances permitted, but it was not to be supposed that the action taken was irrevocable, and that when circumstances altered recourse might not be had to this system of supplementing revenues. Since that date the report of the Indian Famine Commission, amongst other suggestions, urged upon the Government of India the necessity of encouraging diversity of occupations through which the surplus population might be drawn from agricultural pursuits and led to find the means of subsistence in manufactures or some such employments. It was further pointed out that weavers in this country are the most numerous class among artisans who in the event of famine habitually require relief. If it were possible to extend help to this class, it would but be assisting a section of the community that have suffered much by the introduction of powerloom manufactures, through a foreign occupation of the country, which relief should not be grudged. I also consider that the supposed benefit that a moderate import-duty would give to mills working in Native States is entirely mythical, for these mills, chiefly engaged in spinning and not in weaving, do not now number more than nine, and there is no evidence to show that

their number is likely to increase. The advantages that have been gained by the people of this country through the introduction of industrial enterprise have been fully admitted, and I need not occupy the time of this Council with a recapitulation. But after all the number of operatives employed in the cotton and jute factories of India, returned at 187,000, is a mere fraction of the vast population of this Empire. With regard to the suggestion that a countervailing excise should be placed upon the outturn of mills situated in British India, I think it would be quite possible to levy such; but if Manchester, with the help of the economic appliances suggested for her benefit by the leading scientists of the world, cannot compete with manufacturing India at a difference of 2½ per cent. to 5 per cent., it appears to me to be a pure matter of sentiment, and not of practical statesmanship, for the Government now to refuse to recoup the finances by a light or moderate import-duty upon cotton goods.

"I strongly maintain that the maximum would not amount to a protective duty, and that in any case it is justified. The Hon'ble Mr. Wilson, an apostle of free trade whom I have already quoted, gave expression to this view many years ago when he stated in this Council Chamber that, if customs-duties cannot be dispensed with on our imports, 'no reasonable man can object to our retaining an old accumstomed duty of 5 per cent. on manufactured goods, but when this is raised to 10 per cent., which in effect may often amount to 15 or 20 per cent. on the cost price of the article at home, no one who is not prepared to abjure the principles of free trade can deny that this is a rate which, if it is to be maintained, requires us at once to impose a countervailing excise-duty on every loom in India.'

"Unwilling as I am to allude to the subject in this Council Chamber, it is impossible to deny that there is a growing feeling in this country that India's interests are being subordinated to Lombard Street on the one hand and Manchester on the other It is believed that through the influence of the former the Empire has been made to feel, to the full, the effects of the fall in the value of silver without being accorded the liberty to deal with the situation as appears to be in her best interests, and that through dictation on the part of the latter she is now forbidden to find for herself a way out of a difficulty by imposing taxes upon herself. It was observed by Lord Cromer, when in charge of the finances of India in 1882, that the wealth of India, like that of other countries, is in proportion not only to the natural resources but to the degree of liberty it may possess in the use of these resources; and, my Lord, he quoted the views expressed by Your Excellency's distinguished predecessor, Lord Northbrook, that 'in all financial questions the true interests of the people of India are the only

considerations which the Government of India has to regard.' The exercise of a fair measure of that liberty and the consideration of her interests India now desires.

"Sir John Strachey, in this Council Chamber in the month of February, 1880, very clearly set forth the necessity that India should hold an independent financial position, and so important and applicable to the present position are his remarks that I make no apology for quoting them at length.

'I can imagine,' he said, 'few greater misfortunes to India than the loss of her financial independence, and the acceptance by England of financial responsibility for her Indian Empire. It would signify to India the loss of control over her own affairs in every department of her administration, the possible subordination of her interests to those of a foreign country, and the substitution of ignorance for knowledge in her government. Although some rare instances may be quoted in which, when there seemed to be a conflict between English and Indian interests, it may perhaps be doubted whether India has been treated with perfect fairness, there can be no question that, on the whole, the government of India has been carried on with as honest and thorough a regard for Indian interests as could have happened if India had had a separate national existence of her own. England may rightly be proud of the way in which she has treated her great dependency.

'These fortunate results have, however, been due not only to her justice but also to the wisdom with which she has left to India a separate financial responsibility. England has felt that it would be no kindness to take upon herself burdens which India now bears; to guarantee Indian debts, pay for Indian wars and relieve Indian famines. England has also felt that it was wise in her own true interest to refuse to take into her own hands the control of the £67,000,000 which now constitute the revenue of India. England does not choose that there should be grounds for even a suspicion in regard to the purity of her motives.

'I say this in the belief that India has before her a future of increasing wealth and prosperity, but, if this anticipation should not be verified and her future should be one of financial embarrassment, the loss of her financial independence would bring with it other misfortunes. I trust that the people of England may never find cause for believing that the maintenance of their Indian Empire means the imposition of heavy burdens on themselves.

'If India is ever to have a separate national existence, she must have self-respect and self-reliance, and I am sure that Indian patriots, who with perfect loyalty to British rule may nevertheless have, as they may rightly have, visions and aspirations of a distant future of another kind, ought to be the first to declare that their magnificent country shall bear its own burdens. India expects justice from England, but does not ask for charity. She feels that, with her ample and splendid resources, her two hundred millions of people, her revenue which is surpassed by that of two only of the greatest European nations, she is a source of strength, not of weakness, to the British Empire.'

"And, bringing the consideration of this important subject up to date, Your Excellency's distinguished predecessor, Lord Lansdowne, in another Chamber, lately remarked :—

'Another danger—and I am not sure that it is not the greatest of all—seems to me to lie in the tendency to transfer power from the Government of India to the British Parliament. I admit that in a country of democratic institutions Parliament must be the ultimate source and depository of power. In an extreme case, there is no act of the executive, British or Indian, which can be removed beyond its control. The Viceroy and the Secretary of State have alike to reckon with it, and there is no escape from its authority. It does not, however, follow that because these powers are inherent in Parliament they should be perpetually exercised by it, and it is the modern tendency to exercise those powers continually, and at the instance of irresponsible persons, which in my belief constitutes a grave menace to the safety of the Empire . . . . . And so it may come to pass that, while we are slowly and laboriously striving to obtain an equilibrium between income and expenditure, or endeavouring to improve the condition of our Indian service, some haphazard decision of our masters on the other side threatens our finances with bankruptcy, or capsizes our most carefully considered schemes for improving the efficiency of the public services. The wrong thing is done, and it is done in a manner that cannot fail to impair the authority of a Government which can carry on its work only if its authority is upheld.'

"These, my Lord, are weighty opinions. We have not a representative assembly to pronounce by vote upon these questions, but we have a public opinion, an enlightened public opinion both European and Native, and we have a free Press and free discussion, and there is a unanimous verdict from these sources averse to the decision that has brought about the exemption of cotton manufactures from taxation. It is a feeling that is not likely to subside until the Government of India uses its influence to have this cause of grievance removed.

"I submit that a duty to include all imports would not be an inappropriate system of taxation for India in an emergency like the present if it lead, as may be expected—under the pressure of the divers interests affected—to a more vigilant watch being kept, both here and at home, upon expenditure and revenue, with the object of one day getting the taxation removed.

"In conclusion, my Lord, I would urge that for the purposes of revenue, made necessary by the present financial exigencies of the State, the levy of a duty upon imports is an appropriate measure for Your Excellency's Government to adopt; but I would also urge that, as it would be inconsistent with the best traditions of British administration to show any favour to particular industries,

the assessment should include the imports of cotton fabrics, yarns and thread. So strong and so universal is the feeling as to the inadequacy and unfairness of a Tariff Bill which exempts cotton goods while including all other manufactures that I have felt compelled not to rest content with a mere protest, but to take the vote of this Council as to whether the Bill should be proceeded with in its present unsatisfactory condition, or be referred back to the Select Committee for consideration."

The Hon'ble MR. LEE-WARNER said:—"My Lord, I am the junior member of one of the famous 'three divisions' of Your Lordship's Council and the humble recipient of a copy of a resolution which was passed at a public meeting on Thursday. The learned and able gentleman who proposed that resolution devoted much of his speech to an examination of the duties and position of an official member of this Council who is not a member of the Executive Government. My mind at once reverted to the sittings in the old Miracle plays, and I wondered whether the supporters of the resolution would seat me in the upper, central or lower regions. When presently I was reassured by observing that official members were credited with 'consciences,' my satisfaction was soon corrected by the learned gentleman's sum total—'I cannot for myself conceive his voting against his convictions and passing the Act without amendment.' So apt are we all, even the most learned, to denote dependence on me as independence, conscience and convictions as my conscience, and orthodoxy as my doxy.

"I shall, I trust, whenever I vote in this Council or elsewhere, vote according to my own independent convictions without losing respect for the convictions of others and specially of large bodies of my fellow countrymen: and my convictions, which are possibly misguided, lead me to the conclusion which I shall proceed to indicate.

"I agree with my hon'ble friend Mr. Playfair that, so far as it is permissible to apply the phrase 'public opinion' to the supposed sentiments of several scores of millions (who are not aware that the question of imposing cotton-duties is under discussion, nor aware of the existence of this Council), the articulate voice of India, whether European or Native, is unanimously raised against dictation from Lancashire and in favour of the intention of the motion now before us. There are no doubt, however, objections from even the Indian point of view to such duties, and my own experience of the country induces me to believe that the action taken by Lord Ripon's Government found many supporters at the time whose 'consciences

and convictions' were above suspicion. But I admit that the Indian vote to-day is solidly cast in favour of the duties, and perhaps justly so. Still there is and must be another side to the question, and it is a commonplace that questions of tariff and duties on trade and commerce concern Great Britain as well as India. It seems to me that British opinion on this subject is a factor in the decision, that it is an adverse factor, and that it is a potent factor. That it is a factor is a self-evident proposition. I do not believe that there is a nation in Europe which is practically free in the settlement of its tariff. Commerce is an international interest, and no nation which seeks the maintenance of cordial relations with its neighbours imposes taxes upon their exports without due consideration. How much more is a British Indian Legislature bound to give some consideration to the feelings of Great Britain before it decides a question of tariff! I believe that the feeling in the United Kingdom is adverse to the imposition of cotton-duties, as being likely to re-act upon the general prosperity of British trade and commerce, in the maintenance of which India, as a great exporter of wheat, tea and other articles consumed by the British operative, is directly interested. I lay great stress on the fact that two gentlemen who lately addressed a public meeting in this city, one of whom had sat in Parliament, and the other had addressed many public meetings at home, made no reference to any speeches delivered by them on the subject to English ears. I observe that some gentlemen in England, who pose as the 'friends of India,' proceed to Manchester to discourse upon the subject of a Purundhar Bank, but never even in a stage whisper utter a word in favour of cotton-duties. I may be wrong, but I assume it as a fact that British public opinion is as strongly against cotton-duties as Indian opinion is in their favour. It is important, then, to inquire whether such an opinion is potent. It cannot be denied that Her Majesty's Government have the right to disallow any measure passed in this Council. It is well known that a discussion on Indian finances takes place every year, and that Her Majesty's Government are then put upon their trial in respect of Indian financial administration. Is it conceivable, is it constitutional, that the Secretary of State for India should allow a measure which he cannot successfully defend in Parliament? My hon'ble friend Mr. Playfair referred to a speech made by the late Viceroy which I was privileged to hear. But, if I understood His Excellency correctly, he never challenged the authority of Parliament as a final all-powerful decision. What His Lordship objected to was the resolution hastily adopted by an irresponsible member of Parliament, and not the authoritative decision of Her Majesty's Government which is the difficulty with which we are at the present moment face to face.

"If, then, these three propositions are admitted, that British opinion is a factor, an adverse factor and a powerful factor, would it be prudent or statesmanlike on the part of this Council to insist upon passing a measure which would operate for a few weeks to the dislocation of trade, and then be disallowed? That seems to me the only practical question which not merely the official member of the Council who is not a member of the Government, but also the non-official member, must answer according to his conscience.

"I shall give effect to my own convictions, not as I am enjoined to do in the resolution I hold in my hand by supporting the amendment of the Bill, but by recognising these two facts: first, that the Government of India must be fully conscious of the strong opinion in favour of cotton-duties held in this country; and, secondly, that it must be presumed to know better than any other body of men what measure of taxation it can carry to a successful final issue at the present moment. I shall therefore support whatever measure Government may introduce."

The Hon'ble MR. CLOGSTOUN said:—"My Lord, as a member of the Select Committee of the Bill now under consideration, I have signed the Report which has been presented to the Council, and have, therefore, already shown my disagreement with the note of dissent attached to the Bill—a dissent which is made on the ground that the Bill entirely omits cotton goods from the import-duties imposed by the Bill on all or nearly all other imported goods. I should prefer, my Lord, not to give a silent vote in favour of the Bill, but to give very briefly my reasons for believing that the exclusion of cotton goods from the tariff is a measure not less just to the cotton consumers in India than to the producers in England, and that in the present state of the finances, with a reasonable hope that even with a very low exchange we shall be able to meet the needs of the coming year without the necessity of further taxation than that now proposed, the omission of these articles from taxation is advisable. If, while we give to India freedom from further taxation, we can, at the same time, save ourselves from striking a blow at one of the greatest industries of England, I should hope that the whole body of the Council would cordially concur with Government in its determination to defer the imposition of those duties until a time when the Government shall assure us that the raising of additional revenue is imperative, and that no other plan less open to objection than the import-duty on cotton goods, without a countervailing excise-duty, is available.

"I would ask the Council whether the claim of England is not worthy of generous consideration. Compliance with the demand will not involve, as the

Government has already declared, any other form of taxation to which, it may be, serious objection might be taken. Non-compliance with the demand means additional taxation on the people of India. I think it would need very strong evidence to persuade the Council that the country, as a whole, will not gladly welcome the postponement of this additional taxation.

"The grounds on which the abolition of the cotton-duties was demanded by England and assented to by India in 1878-80 were that they were protective in their nature, were contrary to sound commercial policy, and were unjust alike to the Indian consumer and the English producer. These reasons still apply, and, in the interests of the people of India quite as much as in the interests of the manufacturers in England, preclude the imposition of any duty on cotton goods which is not imposed solely as an absolute necessity for revenue purposes.

"The extent to which the import-duty on cotton goods acted as a protective duty was already large in 1878. The extent to which it would so act at this moment is enormously increased, and there can be no doubt that an import-duty would further largely stimulate local production to the detriment of English industry and to the detriment of the local consumers in India.

"Were it possible to impose a countervailing duty on the cotton goods manufactured in this country, the objections to an import-duty on cotton goods of being protective would cease.

"The speech of the Hon'ble Financial Member, when introducing the Bill, shows, however, that the imposition of an excise-duty on local cotton manufactures is beset with great difficulties which the Government at present apparently sees no means of meeting. It is earnestly to be hoped that if hereafter it should become absolutely necessary, owing to any further fall in exchange or even to a continuance at its present low figure, to impose the cotton-duties, some means will be found for overcoming these difficulties.

"It is essential that they should be overcome if the country is to receive as revenue a sum in any proportion to the additional charge which the imposition of an import-duty will impose on the consumer of cotton goods, whether these goods are made locally or in England. Meanwhile, it is clear that an import-duty on cotton goods cannot be made to touch the large productions of the Indian mills, while an import-duty of five per cent. would mean an increased charge of that amount, or more, on all cotton goods consumed in the country, the proceeds of of this huge tax levied on every soul in the country being divided between the

Government and the Indian millowners, the Government share gradually diminishing, while the share of the millowners—a very large share at starting—would from year to year be largely increased.

"My Lord, as matters stand, I am averse to imposing on the country any additional taxation with which Government declares it is able to dispense—a taxation which would fall so heavily on the people and be comparatively so unprofitable to Government. While, however, the Government declares itself prepared to dispense with further taxation, I am afraid it is only too clear that a reduction in the expenditure of the Famine Fund must form a necessary feature in the finances of the coming year. Expenditure from revenue on works protective against famine was suspended in 1886-87 and the four following years in preference to imposing new taxation, and the course was acquiesced in by the country, as being a proper course to adopt, because, though expenditure from revenue was discontinued, a very large expenditure from capital—an expenditure amounting to 3½ crores per annum on railways and irrigation works, which are to the fullest extent famine protective works—is every year incurred. I think, my Lord, that under the circumstances the Government is justified in refraining from imposing further taxation solely in order that it may construct additional railways out of revenue.

"My Lord, in the speech delivered on the 1st instant, the Hon'ble Mr. Westland has shown that the very large deficit of 3½ crores, which would be the result of carrying on till the end of next year our existing rate of expenditure with our present revenues, is arrived at by taking a very low rate of exchange—a rate of 1*s.* 2*d.* the rupee. It is impossible, my Lord, to prove, with recent experience fresh in our recollections, that this rate is too low; but those who have faith in the results of the recent action of Government in closing the mints look forward with confidence to the establishment of a much higher rate, which must sooner or later largely improve the financial position of the Government. With these prospects before us, I, my Lord, as a lover of England, as well as a lover of India, deprecate the imposition of these protective duties which are not now essential, which improved circumstances will, I believe, hereafter show to be quite unnecessary, and the imposition of which, where they are not essential, must rightly create a bitter feeling between the two countries."

The Hon'ble GANGADHAR RAO MADHAV CHITNAVIS said:—"As regards the proposed import-duties, I beg to offer the following remarks, though I fear some of them may be at the risk of a repetition of the statements already

made. My Lord, in the first place, I regret that the Report of the Select Committee on such an important matter should have been placed in the hands of the Members so late. We are thus prevented from making any remarks as fully as we could have wished. I hope no one will take exception to the principle that, as far as possible, no duty should be levied on articles which are mostly consumed by the poorer classes. I must, therefore, deprecate whatever tends to raise the price of such articles. In the schedule appended to the Bill under discussion I find that kerosine oil, which is extensively consumed by the poorer people in this country, and which already bears a duty of half-an-anna per gallon, was to bear double that duty hereafter. It is, therefore, no satisfaction to me that the duty should have been changed according to Select Committee's Report to an *ad valorem* duty of 5 per cent. on this poor's oil. [It may be that kerosine oil is becoming cheaper and cheaper in spite of the taxation already imposed upon it. To increase the duty upon it on that ground will not be justifiable; for will the Government be in a position to remit duties upon it as readily, either partly or wholly, if in the course of a few months, or years, its price tends to increase in consequence either of its increased taxation or of its cost of production? With regard to the argument adduced in certain quarters that an import-duty on kerosine oil is necessary to protect indigenous oil manufacture, it is at once futile by reason of the fact that the oils that are extensively manufactured in this country do not enter into competition with kerosine oil owing partly to their price and partly to the purposes for which they are used.]

"I am glad to hear just now from the Hon'ble the Finance Member that the duty on iron has been reduced, as I consider that there should be no duty on articles like coal, iron, etc., which are necessary for the development of the mechanical industry of the country.

"My Lord, I fully endorse the views of the Hon'ble Mr. Playfair about what he says with regard to the services and the compensation granted to them. I fully syampathise with European servants of the Crown who have to make remittances, but at the same time I cannot dissociate from my mind the idea that it is likely to be felt, especially in these present distressed circumstances, an unjustifiable demand on all other subjects of Her Majesty's Empire, whether European or Native. The imposition of the import-duty is therefore unobjectionable except in respect of certain articles as I have pointed out. But, when it fails to go even half way towards meeting the deficit, I consider it my duty as a representative of the people to take this opportunity of placing

before the Government the strong opinion that prevails amongst them in regard to another class of import-duties, *viz.*, the cotton-duties. As regards the re-imposition of these duties, the Hon'ble the Finance Member has been pleased to observe that duties on cotton goods can mean only import-duties and not an excise on local manufactures also. Without, therefore, entering upon the question of excise on local manufactures, I might express an opinion that cotton-duties, even if they were levied on imports only, would not go against the principles of free trade, as had once been considered. Even free trade countries must have revenue, and a low duty for that purpose is not a policy of protection. And I must go yet further, and repeat, what has been so often said by eminent advocates of free trade, that a policy of protection, when applied to a country like India, where industries are young and unable to rise owing to foreign competition, does not go against the principles of free trade, and may even be necessary. And, if what I have just said as regards infant industries is true of the whole of India, it is much more so as regards the province whence I come, where the mill industry has only just commenced. The practice of the British Government would be antagonistic to its declared principles if the cotton fabrics were to be excluded from a duty on the plea of free trade; for in England itself, where industries are fully developed, what is the case? Import-duties are levied in that free trade country, evidently for the purpose of revenue, on tea, coffee, tobacco, etc. When such is the case, well might the people here misunderstand the motives of the Government, and regard it as alike selfish and insincere that what is thus practised by the British Government at home should by that same Government be forbidden in the administration of India. Besides, the duty will in no sense be a tax or impost on the people of England. It is a general principle that the cost of every article of trade falls on the consumer; otherwise production would cease. The import-duty on cotton-goods would be paid by the people of India, and in such a way as not to be felt as a grievance, or to be beyond their resources. I may here say that, if I were to judge from what I see in my province, the duty would not press the poorer people, as these classes of people generally use cloth made in the province, while Manchester cloth is generally used by the upper and middle classes.

"The reason given, my Lord, by the Hon'ble the Finance Member, no doubt at the instance of the Report of the Herschell Committee, for not imposing duty on cotton-goods is, that in that case there ought to be a counterbalancing export-duty, which, it is said, would be impracticable to impose in the case of hand-made goods made in the mufassal. The reply to this statement has

already been expressed from several quarters, that such classes of the imported goods as are turned out in our mills need not be taxed. But finer fabrics as are not produced in India and woollen goods may be taxed, and, as mills here do not turn out such goods, the duty can scarcely be said to be protective, for it cannot protect a thing which does not exist.

"It must be remembered that the abolition of the cotton-duties in 1882 gave rise to strong opposition from all parts of India. They were a source of revenue the most unobjectionable, because they yielded a substantial income but did not press upon any class of the population and were not attended with injustice or oppression. Yet the duties were abandoned in the face of protests made at the time by several Members of the Council. And, though the people were in no way benefitted, the sacrifice which such an abandonment involved amounted at the time to three quarters of a million. There now remains no doubt whatsoever that such an abolition was not consistent with a far-sighted financial policy, and but for such a policy of sacrifice the Government of the present day would have probably found themselves in a much better financial position than brooding over the means of meeting a heavy deficit of $3\frac{1}{2}$ crores; and, I believe, it would be wise yet to re-impose those duties, against whatever opposition the Government may have to encounter from Lancashire, and in spite of whatever insinuations may be brought against them as protecting the Indian industry in violation of the principles of free trade. It would be wise yet, I say, and I have the then Viceroy himself in support of my contention. I quote the following words which dropped from him in the course of his famous speech of 10th March, 1882, on the abolition of the cotton-duties. 'I am bound to say', said His Excellency, 'that I should not have been a party to the repeal of the cotton-duties, or to the repeal of other customs-duties, if it had been proposed to repeal them in the face of a deficit, or if it had been necessary, in order to repeal them, to impose other taxation upon the country.' I leave it to your Lordship and the Hon'ble Members to judge if these utterances of Lord Ripon do not in a way throw a sort of responsibility on the future Government of the country to resort to these duties at the first instance in the case of a deficit or whenever the wants of a country require further taxation. Unfortunately, it was not foreseen at that time that the financial condition of the country might not continue so flourishing as then, that the country might be again involved in frontier complications, that the rate of exchange would so rapidly fall and that years of deficits would soon follow, and that the Government would be compelled to impose fresh taxation upon the country. If these difficulties had been fore-

seen, the Government of Lord Ripon would never have even so much as contemplated the abolition of the cotton-duties. But all these have now come to pass, and it remains for your Excellency's Government to consider whether it would not be wise yet to re-impose those duties on the same principle of protecting the interests of India on which they were abolished.

"It must also be observed that in excluding cotton fabrics from the list of dutiable articles and at the same time imposing duties on such articles as iron, coal, &c., and thereby handicapping such indigenous metal industries and raw materials as are generally very extensively used in the mills, the Government would be inflicting a two-fold wrong on the people of this country; for while such imposition would increase the cost of production of fabrics manufactured here, and would actually make such fabrics rise in price, the exclusion of cotton fabrics from a duty would act as a sort of bounty or premium on goods imported from abroad, and would also raise the price of Indian manufactures indirectly, in the same proportion. It is a double wrong, I would submit, and Your Excellency and the Hon'ble Members of this Council will, I hope, give this phase of the question the consideration it deserves.

"With respect to the proposal of the exclusion, I humbly believe, there is evidence that even those who advocate or propose the exclusion are not proud of the proposal. Hence it may be inferred that they are conscious of the wrong which such an exclusion would imply, with an evident desire to avoid the responsibility. The Right Hon'ble the Secretary of State told the deputation from Manchester that the Government of India were not prepared to include cotton fabrics in the list of articles to be scheduled for duty. He thus wished to imply that it was the Government of India who were too diffident in their measures. The Finance Member, on the other hand, declared that the Secretary of State was not prepared to sanction the impost on cotton goods, thus clearing himself and the Government of India from every share in the unjustifiable exclusion. In such a case the feelings of the people of India, who will have to bear the burden for no fault of theirs, have, I suppose, some claims to consideration, and the public voice is undoubtedly and almost unanimously very strong in favour of the course which, in the interest of India, ought to be adopted.

"Would it not then be well for this Council and the Hon'ble Members sitting here to make their position clear by including cotton fabrics in the list of dutiable articles, and throw upon the Home Government the responsibility of rejection? Such a course would be consistent with the declaration of the Finance

Member that it is not the Government of India that contemplate this injustice and thus not only make their position clear before the world, but also save themselves from the responsibility of drawing unjustifiably upon any other resources placed in their custody—a step which, it is feared by the people, is imminent.

"I cannot close my remarks, my Lord, without bringing to the notice of the Council that I have received several letters from my province asking me to protest against the exclusion of imported cotton fabrics from the list of dutiable articles, and to place their views respectfully before Your Excellency and the Council.

"Successive Viceroys have held that the interests of India ought to be their first consideration, and that it ought to be the first duty of the Government of India to consider the interests of the Indian people, and that Indian questions ought to be looked at from an Indian point of view. There is no reason to doubt that Your Excellency's Government will be guided by the same generous views, and show to the world that the British Government can forego the interests of a particular section of the people of England when justice and the interests of the entire Indian population really require this to be done. To follow this noble policy will be, for Your Excellency, to inagurate your administration by an act of justice to the 287 millions of people over whom you have been called by Providence to rule."

The Hon'ble the MAHÁRÁJÁ OF DURBHANGA said:—"The imposition on the taxpayers of India of a vast system of import-duties, with the sole exemption of cotton goods, seems to me very much to resemble a performance of the play of Hamlet from which the part of Hamlet himself is altogether omitted. When import-duties have been talked about, whether in the Herschell Committee or elsewhere, as a possible means of relief from our financial difficulties, it is absolutely undeniable that what has been meant primarily is an import-duty on cotton goods. The wording of the report of the Herschell Committee is sufficient to prove this; and it is assumed therein, and is, I fear, notorious, that the chief, if not the only, objection to such a duty is the fear lest it should arouse the hostility of certain powerful interests in the Imperial Parliament. It is impossible in these times of financial difficulty and embarrassment to allege of any of these duties that they are imposed for the purpose of protection. It is obvious, and is indeed admitted, that we are imposing these duties for revenue purposes only, and not for the sake of protection; and therefore the only possible excuse of a fair and honourable kind that might have been urged for the exemption of cotton goods is at once taken away.

"But I go further than this. I say that a moment's consideration will show conclusively that this exemption is itself a protective measure of the most scandalous nature when combined with the duties that are to be so freely imposed on materials of, and machinery for, our own indigenous industries.

"For example, let us consider the meaning of a duty on the import of the various raw or partly manufactured articles that are used as mill stores in our cotton mills. It is unnecessary to point out that this is a protective duty—protecting the mills of England against our own mills. Or, again, take the case of the immense import of coloured cotton goods that are brought to this country from England in prodigious quantities, and that are under this tariff to come in free of duty. The indigenous manufacture of coloured cotton goods that has hitherto competed with these imports from England depends largely on the cheap import of aniline dyes and other colours; and the importance of this industry is plainly shown by the fact that these colouring stuffs are at present imported to the value of, I believe, over half a crore per annum. Now we are going to tax these dyes which enable us to compete with the imported coloured cotton goods, and yet we propose to admit the latter free of all duty. The unfairness of the proceeding is obvious on the face of it, and therefore I maintain that it is quite impossible for any Government that values the good opinion of the civilized world, and that desires to consult the interests of its own subjects, to persist in carrying it through.

"And while I deplore the omission of the import-duty on cotton goods, because that omission protects the industry of others and injures our indigenous industries, I object to some of the duties imposed by this Bill for precisely similar reasons.

"Take the case of the five per cent. that we are invited to impose on the import of iron, copper, brass and other metals. Vast quantities of metal utensils, tools, and so forth are used for domestic purposes, and in agriculture and in other ways, by the labouring masses of the Indian populations; and it is of course quite certain that each and all of these will be rendered dearer for the poor raiyat of India, while our indigenous metal industry will be seriously handicapped by the new taxation.

"But the most painful contrast to the indulgent treatment of imported cotton goods that is afforded by this Bill is the tax on the import of petroleum, the only imported commodity, except salt, that is very largely, and indeed almost universally, consumed by the millions of our poorest and most hard-working classes in India.

"The Tariff Bill is not the Budget, and therefore I do not here suggest any alternative policy other than the inclusion of cotton goods in the schedule of commodities to be taxed on import. But if the old proverb be still true, that a penny saved is a penny gained, then the Executive Government may well be advised to seek increased resources in diminished expenditure."

The Hon'ble the MAHÁRÁJÁ OF AJUDHIÁ said that he would support the Hon'ble Mr. Playfair's amendment.

The Hon'ble MR. STEVENS said:—My Lord, I venture to ask for the indulgence of Your Excellency and the Council in order that I may briefly explain the vote which I propose to give on this amendment. There are precedents, my Lord, which go to show that in past times it has been considered open to Additional Members who are officials to express opinions, and to support those opinions by their votes, adverse to the policy of the Government in financial matters as well as on others of general importance. And I feel the utmost confidence that Your Excellency's Administration would not desire to restrain this customary freedom of speech and vote. In these circumstances, an official Additional Member ought not, in my judgment, to allow it to be believed that he is a mere instrument in the hands of the Government. I desire, therefore, to accept full responsibility for the vote which I am about to give on the present occasion.

"I am in perfect sympathy with the feelings of surprise and regret—universal, deep and loudly expressed throughout the country—that the Tariff Bill does not include a duty on imported cotton goods. I share the general disappointment that, instead of the adoption of so just, impartial and reasonable a method of increasing the revenue the public should have been asked to content themselves with explanations which, as regards a large part of the goods affected, have no relevancy and are inadequate and unsatisfactory as to the remainder. Either the money which duties on cotton goods would produce is required or it is not. If it is required, there seems to be no room for further discussion: if it is not required, I find myself with everyone else in the difficulty of having to discover a reason why other goods should pay five per cent. while these enter free.

"By what means it is proposed that the expected deficit of over 2½ crores rupees shall be met it is at present possible only to surmise. Two methods have been suggested, namely, the absorption of the Famine Insurance Fund and clipping the Provincial Revenues. I will not detain the Council by discussing the mischiefs which these proposals would involve; it seems to me that in either case

they far exceed those resulting from the imposition of the cotton duties. But, if the re-establishment of this impost would give the Government more money than it requires to balance the expected deficit, I venture to suggest that the opportunity should be taken to re-adjust the incidence of other kinds of taxation. The income-tax is oppressive, and, in the case of those whose assessment is not a mere matter of arithmetic, vexatious, inquisitorial and uncertain in a high degree. Yet those who are fairly able to pay will pay, if not cheerfully, still with resignation, provided they understand that they are not being taxed to save the interests of a small but influential body of manufacturers in England, who derive their profits from India but contribute nothing to its revenues.

"I would especially invite Your Excellency's attention to the assessees of the lowest classes, namely, those with incomes of from five hundred to a thousand rupees per annum. In Lower Bengal these persons are about 71,000 in number out of a total number of 104,000 assessed to income-tax; and they pay about 7½ lakhs of rupees out of a total collection of 36 lakhs. They comprise for the most part petty shop-keepers and traders, small village-mahajans, and Government servants and others drawing fixed incomes. No one who has not had practical experience can imagine the difficulty and uncertainty attending the assessment of the first two of these classes. Accounts are not kept, or at least are not produced; balance sheets, if submitted at all, are obviously prepared for the occasion; and the assessor is left to assess on the best guesses he can make, with the help of information given by the neighbours, who have often an interest in misleading him in one direction or the other; average daily sales of the shop-keepers are estimated, average scales of profit are guessed at, the supposed capital of the petty money-lenders is conjectured, and an average rate of interest is struck. This is all that circumstances permit, and not an officer concerned (from the assessor to the Commissioner of the division) can feel the least certainty that the assessment has been just, or that a man who ought to have been assessed has not unjustly escaped. For the poor man whose income is fixed and known there is no escape; no evasion is possible. I think no one can read the Native papers without being struck by the frequency of the complaint from local correspondents that food has reached famine prices. No doubt this is usually an exaggerated expression; but it has a pathos of its own as implying a belief that the pressure, severe for the present, is yet temporary. Those who can take broader views know that this is not so; they know that the purchasing power of silver has fallen, and, though it may fluctuate within narrow limits, is never likely to rise again to its former level. The result is this, that those who were once 'passing rich on £40 a year' are

so no longer. The times have become hard for them, and it is with difficulty that they can feed and clothe their families. To be excused a tax of ten rupees would mean to gain the power of buying, say, three maunds or so of rice, or of paying for the attendance of one or two children at school, or of providing a considerable part of the clothing of the family. When I think of these patient, laborious, indispensable people toiling in silence while their difficulties close round them like the collapsing chamber in the romance, I am impelled to ask Your Lordship's Government to consider whether their relief from the tax does not claim from an Indian Administration infinitely more attention than a perhaps trivial increase in the gains of the Lancashire manufacturers.

"I now pass on with reluctance to a matter of far greater moment. It is impossible to ignore the rapidly spreading and growing belief, which is gaining currency with all classes throughout the country, that in this case, and perhaps in others, the interests of India are sacrificed to meet the exigencies of party politics in England. At the Town Hall on Thursday a Native gentleman of high reputation is reported to have used the following language :—'During two hotly-contested campaigns I had the honour of appearing in the ranks of the Liberal Party; but no sentiments of allegiance can deter or restrain me from saying that I feel deeply humiliated that a Liberal Administration should be in favour of what impartial history will hereafter describe as an act of gross political immorality.'

"My Lord, among us in India the asperities of party politics are smoothed and practically forgotten among those cares and studies which are common to us all. Within the walls of this Council Chamber European politics have no place. I venture therefore, without hesitation, to say that there is no one here who can fail to be powerfully moved when he hears criticisms such as these passed on any British Administration, whether Conservative or Liberal, by a Native of India, educated after our manner, versed in our politics and history, and competent to judge us according to our own moral tests.

"I do not admit that the criticism is accurate and just. I have a firm hope that it will prove to have been premature. But the people of this country read in their newspapers how pressure is from time to time applied, sometimes in the guise of humanity, sometimes in avowed selfishness, but always, as they think, in the direction of advancing interests at Home to the detriment of those of India; and, when they observe the action or inaction (as the case may be) which is prayed for being practically carried out, it is no wonder that they are tempted to regard

the relations of these things as the relations of cause and effect. It is often said that the British Empire in India rests on the national character for truth and justice, and that the single-minded devotion to duty of the great majority of our officers has satisfied the people that the administration cannot be in better hands. My Lord, in these days a fierce light beats around not only those in exalted positions but the Collector in his district and the Assistant in his sub-division. An error, a mistake of judgment, an unpopular executive order, a few hasty words, not to speak of more serious transgressions which in former days would have remained unknown except to those personally cognizant of the circumstances, is now dragged forth and sometimes exaggerated into undue importance, and the person in fault is discredited and denounced; but, while individual officers are thus sharply criticised, we see the British Government, the British Parliament, the British nation, acknowledged as the ultimate appellate authority to be relied on to set right what may have been done wrong here. And this acknowledgment, and the belief which underlies it, are the real safeguards of the Empire.

"But what if it be believed that the fountain of justice itself is impure? But what if, in the minds of our Indian fellow-subjects, the impression should be confirmed that their good is disregarded and postponed to selfish considerations by those same exalted authorities to whom they have been accustomed to look for protection? I can conceive of no condition of greater gravity.

"I forbear to pursue this topic further, for I know that it cannot fail to engage the most serious attention of Your Excellency's Government.

"And now, my Lord, that I have thus plainly, though briefly and very inadequately, indicated my views on the general subject before the Council, I wish to offer a few words to explain the vote which I propose to give. Much counsel has been given to the official Additional Members, and they have been freely invited to do their duty. The votes of the unofficial Members are understood to be a matter of course: the members of the Government are so fettered that their abstention from voting may be pardoned. For those of us who are officials, but who fail to vote in accordance with what are believed to be our convictions, there is said to be no excuse. I offer no excuse, and, if my vote is not in accordance with the views of those with whom I most heartily agree on the main subject, they will remember that I am entitled to maintain my own opinion as to what it is right for us to do.

"If we were living under a system of what is technically called 'responsible government', under which Your Excellency's Executive Council would be solely responsible for projects placed before us, and under which the effect of this amendment being carried would be that my hon'ble friend Mr. Westland with his colleagues would resign, and Your Excellency would commission my hon'ble friend Mr. Playfair to form an Administration to carry out forthwith the opinions with which I am in sympathy, there would be no difficulty in coming to a decision. But the facts are far different. Your Excellency is yourself the head of the Executive Government: the Council are not to be deposed by votes of ours. We have no means, except guessing, of even knowing to what extent the Government of India in India, in omitting to impose a duty on cotton fabrics, is acting in accordance with its own opinions or in obedience to instructions from Home. The mover of the amendment does not ask us to reject the Bill: he merely wishes it to be recommitted. It seems probable that nothing would be changed by the Select Committee, and when the Report came to us we should be in exactly the same position that we are in now. But an interval of trouble and uncertainty would have been passed; and your Excellency's Government would have been put to great inconvenience, and the public service would have been obstructed. All that we should have done would have been to enter a protest, and that is what I understand to be the purpose of the amendment. But in my judgment the reduction of business to a dead-lock is an expedient which requires absolute necessity for its justification. In this case the necessity is not apparent to me. There is no reason to believe that the high authorities in England, who are the ultimate rulers of this country, have ever realised the extent and depth of the feeling which exists here on the subject of these cotton-duties. The meetings which are being held from one end of India to the other, the writings in the papers, the proceedings in this Council, must convince them that this opposition is practically universal and most thorough and sincere, and cannot be disregarded with safety. I cannot believe that, when the strength of this growing agitation is recognized, the Government will persevere in a course of action which to people of all trades and professions and of all nationalities in India appears to be incompatible with the interests of this country.

"Because I feel confident that the question will be reconsidered and our object thus gained, I deem it my duty not to vote in a manner which I think would tend to cause serious inconvenience to Your Excellency's administration."

The Hon'ble FAZULBHAI VISHRAM said :—" My Lord, I have joined in the partial dissent from the Report of the Select Committee, because as a member of a large community vitally interested in the industrial development and material prosperity of this country, and as a commercial man not wholly unacquainted with the economic condition of the people, I feel it my duty to record an emphatic protest against the exclusion of cotton goods from the operation of the Tariff Bill. My Lord, I have tried to acquaint myself with the reasons which have induced Government to make the exception in favour of such goods, but I have failed utterly to apprehend or appreciate the force of those reasons. That they have wholly failed to satisfy the public opinion of India is a matter of notoriety. That the reasons assigned have no valid foundation I shall endeavour to show in a few words. It has been suggested that if imported cotton goods were subjected to a duty there would be grave difficulty in the case of the products of the mills in Native States, for it is said neither could customs be conveniently realised on them on the British frontier, nor would it be just to raise an excise-duty on such goods. But when we fully understand the facts connected with this argument we shall see how fallacious it is. There are at present 141 cotton mills in India, of which only eight or nine are in Native territories, and out of these eight or nine six only weave cloth! The obstacle therefore which, as suggested, wears an aspect of formidable dimensions, loses all its weight, all its force, when you examine its real application. But there is more than this. These mills in Native States, like the mills in British India, only turn out coarser cloths and yarns of the lower counts. Throughout the discussion which the proposed measure has given rise to in the country, nobody has suggested that such articles of coarser make or coarser counts should be subjected to duty. What Indian public opinion contends for—and on this point Indians and Europeans seem absolutely at one—is that there is absolutely no reason, no justification, for excluding the finer cloths and finer yarns from duty. If they are made dutiable, the whole difficulty as to cotton goods imported from Native States vanishes. And so does the idea which seems to haunt the mind of the English manufacturers that duty on imported cotton goods mean protection on goods made in this country, for, as I have already ventured to point out, we make in this country cloths of coarser texture and yarns of coarser count, which we do not suggest should be made dutiable.

" The exemption of goods to which I am referring from the operation of the Tariff Bill is, in my humble opinion, politically and economically unwise. It is not my province to discuss politics in Council. But, my Lord, I cannot help

seeing the impression the exemption has created in India. The impression is that India is being sacrificed to English interests. Right or wrong that impression prevails among all classes of the community, high and low, European and Native. They say that the currency measure has been rendered a nullity owing to Lombard Street; and now justice is denied to India in view of Lancashire. I am only referring to the opinion in the country which is daily gathering force and increasing in volume. Is it wise, is it right, I venture to ask, to give cause for such an impression about the beneficent British rule? We see that the Government of India is face to face with a grave financial difficulty; that it has an enormous deficit to meet, which may become still larger if English exchange were to go down further. I will not pause here to enquire how this has happened, or whether it would not have been obviated by means other than by imposing additional burdens on the people. Nor do I wish to travel out of the range of the present discussion by enquiring why no real effort was made to give effect to the currency legislation of last year. What I do say, and say emphatically, is that I utterly fail to understand why cotton fabrics imported from England to India should be exempted from taxation, when it is perfectly well known that the incidence of that taxation would fall in the main on the well-to-do classes here who use the fabrics which we suggest should be taxed. Such a tax, if imposed, would not only go a long way to making up the deficit, but probably help, in some degree at least, in erecting a balance of trade in favour of India and thus give some stability to our currency. If, however, the Tariff Bill passes as it is, India will not only lose a much-needed revenue, estimated at about 130 lakhs of rupees, but a penalty will be imposed upon her cotton productions. For intance, Bombay will be handicapped to the extent of the additional five per cent. which her mills will have to pay for English stores—not coal, referred to by a previous speaker—besides the further disadvantage which the lowering of the China exchange, in consequence of the duty on silver, will bring upon her. Thus, in addition to Lancashire, even Japan will be favoured at the cost of India.

"With these remarks, my Lord, I beg to support the amendment."

The Hon'ble Sir GRIFFITH EVANS said:—"My Lord, this matter which is before the Council to-day is a matter of very great gravity. The difficulties of the situation are very great, and I did not come here with a light heart in the belief that it is a simple thing to decide one way or other; but the situation, as the Council will see, is one which, so far as my experience goes, is quite unparallelled. This is the position The Financial Member has shown us a financial statement, not the whole Budget. It is sufficient for the purpose of establishing that it

is necessary to raise money, and that there is a deficit of 3½ crores to be made up, and he proposes to meet this by levying general import-duties, exempting cottons, and including a tax upon petroleum. The general import-duties bring in about Rx. 1,200,000 and the petroleum-duty brings in Rx. 200,000. The total of that comes to Rx. 1,400,000, and the rest of the 3½ crores is unprovided for by taxation. It is not explained as yet how this deficit is to be met, but one thing is apparent and cannot be denied, and that is that the only way in which it can be met or diminished is by absorbing what is called the Famine Fund, or, more accurately, the famine surplus, and making so-called retrenchments; that is to say, starving the country to such an extent so as to cripple the administration and stop all progress. The cotton-duties would amount to a considerable sum—Rx. 1,350,000; but the Financial Member will not take this money, although the money is urgently needed, and although it is there to his hands and the financial situation clearly demands it. The reason he has given for not taking it is to be found in his short statement that 'Her Majesty's Government are not prepared at present to sanction the inclusion of cotton yarns or cotton fabrics among the articles declared liable to duty.' This intimation has been received all over India, as you have heard from previous speakers, with an unqualified storm of indignation. The Hon'ble Mr. Lee-Warner admitted that the opinion was solid in India. Your Lordship has heard from various non-official members in Council and from the Hon'ble Mr. Stevens how very strong and widespread the feeling is. Alone amongst them the Hon'ble Mr. Clogstoun has by the light of a lively imagination come to the conclusion that he will yet see the country welcoming this shapeless and inadequate measure. I think I may almost say that there is no one in India who doubts that if the Government of India were left free in this matter neither they nor any sensible financiers would have exempted cotton-goods.

"Now, why is it this indignation is felt so strongly? The reasons are not far to seek. I must, in order to explain it, call the attention of the Council to how the matter stands with regard to these import-duties. These duties were repealed in 1882 finally. They were repealed at a cost of over £600,000 in respect of the cotton and £560,000, I think, in respect of the general import duties, making a total of over a million. Now, it is perfectly true that in 1878 there was a resolution of the House of Commons that these duties ought to be abolished because they were protective in their character, and ought to be abolished when the finances of India permitted it. But that objection had ceased before 1882, for they had been confined to the finer class of goods in which India did not, and does not, compete. I have here the words of Sir Evelyn Baring

in 1872, in which he admitted distinctly and categorically 'that direct protection to local manufactures no longer exists.' But he put his objection to the cotton-duties on other grounds, and he, being determined then, having a surplus, to repeal those duties, did —as every financier would do under the circumstances —make the case as strong as he could against them. But when he had done that he turned to the general import-duties and he rent them. He showed upon all kinds of grounds that they were protective, that they were taxes upon raw material in many cases, and, after having dealt with them in the most ruthless manner, he wound up by saying—'The arguments in favour of abolishing the general import-duties are even stronger than those which may be adduced in respect of the abolition of the cotton-duties. The maintenance of the former, if the latter are to be abolished, would from every point of view be open to objection.' The abolition took place because these import-duties were objectionable and Government considered they were sufficiently well off to do without them.

"This then was the position in 1882—that there was a large tax upon the finer kinds of cotton goods. It admittedly was not protective, and it was not pretended that it was abolished because it was protective. With regard to the question whether it was protective or not before it was reduced in 1878, I will not trouble the Council at any length. Anybody who wishes to consider the matter will find from the able speech of Mr. Mandlik of Bombay in 1886, at the time when the income-tax was proposed, that he adduced many arguments to show that, as a matter of fact, there was not any large competition in coarse goods between Manchester and the Indian mills. The real competition in the coarse goods was between the Indian mills and the handloom weavers. The objection of protection then had, as a matter of fact, been met by 1882, and the matter stood in this way, that except for certain inconveniences—and they were less than the inevitable inconveniences of a general import tariff—there would have been no reason for taking them away. Now, it has been suggested apparently that in seeking to re-impose those taxes we are proposing to strike a deathblow at Lancashire—so the Hon'ble Mr. Clogstoun seems to think—and that we ought to beware of doing anything of the kind. I entirely agree with what has fallen from one Hon'ble Member that there is a solidarity of the Empire, that there ought not to be a war of tariffs or an attempt to injure or destroy each other; live and let live. But what we complain of is that this is not being carried out.

"It is clear that duties on the finer cottons are not open to objection on the ground of protection or anything of that kind. There may be inconvenience; that cannot be helped. When you come to the coarser goods there is

no doubt the question how far it acts as a protection, but if it were desired to tax these coarser goods, and if an excise duty were necessary for that purpose, I do not suppose the ingenuity of the Financial Member would fail him in finding a means of putting on an excise-duty. That particular question is not, however, before the Council. Then, as regards the handloom weavers, it is as absolutely absurd to suggest that Manchester or the Indian mills would suffer and be crushed by the protection to handloom weavers of a duty of five per cent. as it would be to suggest that a first class English racehorse would be crushed by having to carry five pounds more weight in a handicap than a 14-hand Arab. The handloom weavers have been beaten and were beaten before the duties were taken off, and therefore we need not trouble ourselves further on this point. Then, if you will look at the need of a tax, it is, of course, evident that the money is much required and that the tax is a tax which would enormously lighten the situation and relieve the finances of India, and ought to be put on unless there is some very serious objection; that it is a tax upon which every body is agreed—officials, non-officials, Natives and Europeans, and, if we may trust the papers, the whole of the Secretary of State's Council. There is, as a matter of fact, a consensus of opinion which I have never seen parallelled since I have been in India, and it is an exceedingly sad thing to see that, for some reason or another, the Home authorities, with whom the ultimate power rests, for the present, at any rate, seem insensible or indifferent to that fact. What may be the reason I do not know, but can guess. I do not entertain the same views as one hon'ble member expressed—that is, I am unable to look with intense admiration at the great vigilance with which the English Parliament scrutinizes the Indian Budget. As a matter of fact, the Indian Budget is brought in at the tail end of the session and listened to usually by empty benches. But we know that there are other influences which do cause people under the exigencies of party warfare to do regrettable things. We hear this from both parties. We have read the most eloquent denunciations by Mr. Gladstone of the manner in which a Tory Government and a Tory Viceroy repealed a large portion of the cotton-duties in 1879 without any consideration of the distress or necessity of India, and how unfair the manner was in which it was done. We know that such things do happen from the exigencies of party warfare, and there is no doubt that the public in considering this matter does not live in a band-box, and is not able to exhibit that wonderful and childlike faith in the all-seeing wisdom of the Secretary of State for India and Her Majesty's Government which is a most valuable possession to those who have got it, and which is particularly desirable for persons with tender consciences.

"With regard to the Government in India, apart from what one can gather from the Financial Statement, I do not think that anybody who is acquainted with the *personnel* of that Government would credit them with having originated this measure or with having decided of their own free will not to include cotton fabrics in any shape or form. As regards the Financial Member, no one would credit him with it. He is too well known. His genius for finance, his grasp of the situation, his fitness to ride out a financial storm, are all well known, and when we find him taking tithe of 'anise' and 'cummin,' two of the articles to be found in Schedule No. 3, and neglecting the weightier matters of finance, to wit, the cotton fabrics, one knows that it cannot be of his own free will. I observe that 'mint' has unaccountably been omitted, possibly lest the scripture should be fulfilled. Or, again, when we find the Financial Member—when we see a man of his grasp and power—grovelling in the dust heaps of the third schedule for 'fish maws' and 'sharks' fins' to meet a deficit of 3½ crores, we feel very much like what the ancient Assyrians must have felt when they saw Nebuchadnazar going on all fours and eating grass under the compulsion of the Higher Powers. It is a pitiable spectacle.

"As to the attitude of the members of this Council, as regards the non-official members I would only say this, that so far as I am able to ascertain, and certainly speaking for myself, the attitude is one of a desire so far as possible not to embarrass Your Excellency's Government but to give every assistance and sympathy. Still, when this matter is so scandalous and felt to be so, they have no option except to do what they can to stop it. As for the official members, I can say nothing; they are able to speak for themselves. The legislative members have vindicated their privileges of free speech and free vote, whether on a Government measure or not. As to the difficulties with regard to voting on this particular motion, I entirely sympathise with the difficulty which the Hon'ble Mr. Stevens sets forth. After having fully stated his opinion, he points out the difficulty he feels with regard to voting for this motion. I extremely regret that the form of the motion is obliged to be what it is, and I ought to explain particularly to the Council why it is so. I should much have preferred to have had a plain and direct motion that cotton fabrics be included in the schedule. But I understand from the Hon'ble Mr. Playfair that an objection was raised that this would be beyond the competence of a private Member of Council, because it would be introducing a measure of taxation. Whether that is so or not need not be discussed at the present moment. At any rate, the Hon'ble Mr. Playfair did not consider it desirable, under these circumstances, to raise this question, and therefore he put the form

of the motion in the only way in which he could in order to raise the question. Two courses only were open. One was to vote simply against the passing of the Bill, and the other was to have a discussion at an earlier stage and move, as he has done, that the Bill be recommitted to the Select Committee. I understand the feelings of my hon'ble friend Mr. Stevens, because, of course, it cannot be certainly known what the action of the Secretary of State would be if this motion was carried. If the Secretary of State still refused his sanction to the inclusion of cotton fabrics, it may be that nothing would have come of it except a deadlock, or it may be the Secretary of State would yield to the unanimous feeling of the country backed by the action of the Council. We who have supported the motion have come to the conclusion that, on the whole, it was the best course to adopt on the ground which I shall explain.

"We are placed in this position. It is within its legitimate powers for the Council to take the step of practically refusing to pass this Bill unless the amendment is made, and it is possible that the Secretary of State on that refusal, considering the deadlock to which matters may be brought by it, may change his mind. We are very loth to propose such a motion at all, and it is undoubtedly a choice of evils, and it is quite open to anybody to come to the conclusion that the lesser evil is to allow the Bill to be passed with a protest if an amendment cannot be made as my hon'ble friend Mr. Stevens has said. On the other hand, I have come to the conclusion that, on the balance of convenience and inconvenience, it is better for us to press this motion, and my reason is this. The feeling is exceedingly strong and it is exceedingly bitter. The sober judgment of the country is against the decision come to by Government, and that sober judgment has been quickened into indignation by the feeling that this does not belong to the class of excusable errors of judgment, and is not a decision which could be arrived at by anybody on a real consideration of the true interests of India. If there were such a spectacle before us as that of Lancashire about to be starved by a protective duty, there would be reason for the exemption of cotton fabrics from this measure, and I would be the last person to take the line that we are advocating. But there is nothing of the sort proposed. The feeling of indignation is so exceedingly strong that it is most desirable that in some way or another it should be put an end to. Nothing is worse in India than agitation of any kind, and agitation of this sort, where we are placed really in this position that it is difficult for us to maintain our proud boast that we honestly believe that, barring errors of judgment, India is being administered in her true interests, is doubly injurious. When one sees the Secretary of State, in the exercise of his absolute power, demanding the Bill

in its present form from the Government in India, one is reminded of Alladin and the Roc's egg. I feel that unless some steps are taken to stop this injustice there will be a very strong feeling of discontent and injury throughout the country, and what makes it worse is this, that it is the only time that I can remember when everybody, official and non-official, Native and European, is of the same opinion. In these circumstances I deem it best to ask this Council to take steps to terminate the situation by a vote which will render it necessary for the Secretary of State to reconsider his decision at once and, if possible, avoid discredit to British rule. The step taken is an unusual one, and opinions may differ as to its being the right one; but, on the whole, so far as I can see, it seems to be the only one open to us, unless we are content simply to make a protest and then allow the Bill to be passed without recording our votes against it in its present form. The situation is one, so far as I am aware, which has no parallel within the time I have been in India. Under the circumstances, I can only hope, if, as seems probable from what has been said by various speakers, this motion is lost, the Secretary of State may still reconsider the matter."

The Hon'ble DR. RASHBEHARY GHOSE said:—"I have no hesitation whatever in supporting the amendment moved by the Hon'ble Mr. Playfair, who represents the mercantile community in this Council. I venture to think that the exclusion of the cotton-duties from the Tariff Act would be not only a cruel wrong to the people of this country, but a grave scandal as well as a financial and political blunder, to which the famous saying of Tallyrand might well be applied. We are all aware how public opinion has condemned the proposed exclusion. Not a single dissentient voice, at any rate outside the Council Chamber, has been heard—not one jarring note of discord. The Hon'ble Mr. Westland, in introducing the measure, referred to the embarrassed condition of the finances, and said, rightly enough, that he was obliged to cast his net very wide. He might also have added that the meshes of this net are very fine; for besides the articles to which attention has been drawn by the Hon'ble Sir Griffith Evans, we find that the schedule includes the cassia nut and the common shell; but notwithstanding the gravity of the condition of our finances, notwithstanding the obvious necessity for casting the net very wide, notwithstanding the extreme fineness of its meshes, cotton fabrics are conspicuous by their absence.

"It is said in the Statement of Objects and Reasons that owing to the embarassed condition of the finances it has been decided to increase the revenue by the imposition of indirect taxation in the form of import-duties, and that the present Bill practically re-imposes the Tariff schedule of 1875 with some excep-

tions, of which the most important is the omission of duties on cotton yarns and goods. Now, one would think from the language here employed that cotton yarns and goods do not form an important part of our imports, and although they are excluded we are practically restoring the Tariff Act of 1875. But what is the actual state of things, and what would the intelligent foreigner who is said to be always with us think of the omission if he was told that the goods which are advisedly omitted constitute nearly one-half of the total imports? What would be his surprise if he should read the speech in which the Bill was introduced by the Hon'ble Finance Member? That speech contains an able defence, if I may say so, of import-duties when the interests of the Exchequer require that such duties should be imposed. But for any justification of the invidious distinction in favour of the cotton goods which come to us from Lancashire he would seek in vain in the utterances of the Finance Member beyond an echo, somewhat faint, from the report of the Herschell Committee that the duties on cotton goods were the subject of vehement attack in England, and that any attempt to re-impose them would meet with great opposition. But opposition from whom? Not from the people of this country, not from the people who would have ultimately to pay those duties, as the intelligent foreigner in his innocence might imagine, but from the manufacturers, the merchant princes of Lancashire!! It has been suggested that an import-duty on cotton goods would be a protective duty and therefore objectionable. But the answer may be given in the words of an eminent living English statesman whose name will always be dear to free trade. 'There is not,' said Mr. Gladstone from his place in the House of Commons in 1879, 'a free trade Government in this or any country which has not freely admitted that the state of the revenue is an essential element in the consideration of the application even of the best principles of free trade.' These words were quoted with approval by Major Baring in 1882 and have been repeated by our present Finance Minister; and here I cannot resist the temptation of citing another passage from the same speech which possesses a peculiar appropriateness at the present moment. It is to be found in one of the memorials on the table. Mr. Gladstone said:—

'With regard to the remission of import-duties, there seems to me to be something distinctly repugnant in the way it has been done in the time of India's distress and difficulty by the Government of a party which has done all in its power to retain every protective duty in this country, and which, from year to year as the occasion arises, advises the Crown to assent to Colonial Acts imposing fresh duties upon British manufactures What an invidious, almost odious, picture of inequality we exhibit to the millions of India. The free trade doctrines that we hold so dear, that we apply them against the feelings of

the Indian people in their utmost rigour and without a grain of mercy, disappear in a moment when it is a question of dealing with those whose interest and opinions we cannot lightly tamper with, namely, the free colonists of the Empire?'

"In this connection I may be permitted to refer to the opinion of another well-known apostle of free trade in our day, the late Mr. Fawcett, who was known—and, if I may say so, worthily known—as the friend of India in the House of Commons. Mr. Fawcett, in a well-known treatise of his, draws a distinction between a protective duty properly so-called and a duty imposed merely for revenue purposes, and he points out, with regard to the duty on Manchester goods, that it could not be treated as a protective duty in the proper sense of the expression. But, even if it was a protective duty, are protective duties in the shape of bounties to native industries so utterly unknown in the rest of the world, so utterly unknown even in British colonies, that we should shudder at the bare mention of protection? I submit that a light duty of five per cent. cannot possibly be regarded as a protective duty; and this conclusion does not rest on speculative opinion only, for we are not altogether without experience. What has been the effect of the removal of the duties on Manchester goods? Has Manchester been able to drive Bombay out of the cotton market? No. But, as Macaulay says in speaking of legislation regarding Irish industries by the English Parliament, the jealousy of commerce is like the jealousy of love; it is as fanciful and as unreasonable, and the accomplished historian might have added, it possesses another well-known attribute of 'the green-eyed monster'—it is as cruel as the grave.

"Then, again, the difficulty of excluding a particular kind of goods like Manchester fabrics from the Indian tariff is so obvious that it is hardly necessary to insist upon it. This was pointed out by Major Baring, now Lord Cromer, in one of the speeches quoted by the Finance Minister in his speech in introducing the Bill. In making a clean sweep of the import-duties from our tariff in 1882, Lord Cromer spoke of the 'destructive' forces which had been introduced by the partial abolition of the cotton-duties in the year 1878. He said:—

'Apparel of many kinds, hardware, jewellery, innumerable manufactures of metal, provisions and stores of many kinds, spices, sugar, tea, tobacco, with raw silk and fabrics of silk and wool, are all made in India, some to a large extent, and every import-duty on them is protective. On what principle, again, are silk and woollen goods, or goods having cotton mixed with silk and wool, to be denied the exemption accorded to cotton goods? "The duty on *woollen fabrics*," the Calcutta Trades Association righly argues, "must, if only for the sake of consistency, follow the cotton-duties."'

"To-day it is Manchester, to-morrow it may be Newcastle, the next day it may be Birmingham, and so on from day to day till there will be nothing left to tax except sharks' fins and shells. I repeat that a duty on cotton goods cannot be objected to on the ground that it would be protective. Bot suppose I am wrong; cannot the objection be met by imposing an excise-duty on home manufactures? The thing is not impossible and certainly not above the ingenuity of our able Finance Minister. In fact, it may be necessary at any time, if exchange suffers a further decline, to impose an import-duty on cotton-goods, which must in the opinion of some persons be accompanied by an excise-duty on home manufactures; but then there is another and a more unexceptionable way out of the supposed difficulty. There are some kinds of cotton yarn and goods used by the wealthier classes only which cannot be produced in India, and an import-duty levied on such goods cannot possibly, even by the warmest admirers of free trade, as against fair trade, be regarded as protective. Some side issues, as I may call them, have been raised by Hon'ble Members. The unequal incidence of the income-tax as well as the additional burden placed on our finances by the exchange compensation allowance have been introduced into the debate. These, however, are questions upon which I do not now propose to enter. They may well wait till the Budget comes up for discussion. We have had as yet, if I may say so, merely the first instalment.

"My Lord, I have done; but before I conclude I must say that the fair fame of England for just dealing, which cannot, if I may say so, be too jealously guarded, is at stake. The spell which she has so long exercised over her subjects, a spell more potent even than the bayonet or the sword, which holds in loyal submission her vast empire 'broad based upon the people's will'—is in danger of being broken. At such a moment as this we owe it to ourselves—we owe it to the country—we owe it to the Government under which we have the happiness to live—to give timely warning. Our warnings may be unheeded—our protests may be disregarded as 'a tale of little meaning' 'chanted by an illused race of men'; but we shall at least have the satisfaction of having done our duty—a most painful, but I need hardly add, under the circumstances, a most imperative duty."

The Hon'ble MR. WESTLAND said:—"When I brought the present Bill before Your Excellency's Council at its meeting of 1st March, I was more concerned to show the necessity out of which arose the demand for new fiscal legislation than to explain the reasons for which it had been determined that we should not at the time go further than we did in the proposals laid before the Council.

It must, however, have been sufficiently evident that when we stated that our resources were at the present moment behind our requirements by Rx. 3,500,000 and brought forward demands for fiscal legislation which covered only Rx. 1,400,000, we either had some particular justification for not pressing further demands upon the tax-payers, or we had some other legislation in view. The necessity of our declaring our intentions in this matter was brought before Your Excellency's Government by the Bengal Chamber of Commerce; and Your Excellency's Government, recognizing that our public critics were justified in urging their inability to pronounce upon the present proposals without knowing something more of the full scheme of the Government, at once communicated to that Chamber and to other similar bodies the fact that no other proposals lay behind the present one; in other words, that the Government of India did not intend at the present moment to fill up by new revenue the whole of the estimated deficit.

"'The appetite comes in the eating,' and I am to-day assailed with fresh enquiries as to intended measures. It is not desirable for me to anticipate otherwise than in a very general way the statement I shall have to make in a week or two to the Council as to the measures by which we mean to carry on the finance of the Government for the ensuing year, but, so far as I can, I shall try to meet the demands. The fact is that our Budget discussions are not yet complete, and there are measures still unsettled upon which Budget results depend. I do not mind admitting that I do not expect to show a revenue equal to the expenditure I shall have to meet. I cannot say as yet how far we can enforce economies so as to reduce our expenditure for the year as nearly as possible to the level of our means. But I may say at once that this is the main staple of our proposals in addition to the measure now before the Council. As regards the question of Council Bills, again I must say that until the Budget date approaches the Secretary of State may reasonably object to our announcing measures which he is still at perfect liberty to modify. But I am unwilling to refuse even this information, so far as I may give it. All I can say is that in the Home Estimates, as they lie before me, the Secretary of State does not propose to increase his drawings over the year's requirements in order to pay off the temporary debt. The precise figures will be announced in due course, and will be accompanied with the usual reservation of entire liberty to the Secretary of State to vary the amounts drawn or borrowed, as he may find occasion.

"The view which Your Excellency's Government has taken is that we are at present in a transition period, and that whatever measures we take—

whether they are sufficient or insufficient to fill up the deficit in the accounts of the year 1894-95—they must be looked upon as only provisional and temporary. We are still passing through—it may be said we have only just entered upon—that currency crisis upon the settlement of which depends our future finance. Whether we shall be able to establish our rupee at what we may call a favourable figure is a question the solution of which must practically be left to experiment. Until two months ago circumstances were against us, and the experiment was practically in suspense. The period during which we have been able to watch the effect of commercial operations upon our currency is not yet more than a few weeks old—far too short a time to enable us to judge whether the falling rupee is to carry us into perpetually increasing difficulties, or whether a recovery from its present low figure is to give us some respite from our financial troubles and anxieties. Even since my statement was laid before the Council there has been a change—whether it is merely a temporary one or not, it is nevertheless an important change—in the aspect of the matter. Time has not yet declared on the one side or on the other, and it is impossible for any one as yet to pronounce whether our financial position is going to improve or going to deteriorate. It is a serious confession to make, but it is nevertheless true, that our financial position in the immediate future depends upon circumstances absolutely outside our control, and that we can do little more than watch in what direction the forces are working which will in the end either bring us security from these perpetual variations or still more serious troubles than any we have yet had to provide against.

"This then is the position we had to meet. Do what we will, the year 1894-95 must be a transition period—a period at the end of which, we have every reason to hope, we shall be far better able than we now are to judge in what direction our finance is progressing.

"Under these circumstances the question that presented itself to us was whether we were to assume that all hope of the recovery of the rupee, within some measurable distance of time, was lost, and to adopt heroic measures which would place ourselves at once in a position to meet our current rate of expenditure, even with the rupee at fourteen pence; or whether we should for the present adopt a policy of waiting for further developments, making all the temporary arrangements we could for tiding over a year of extreme difficulty, and meantime merely lay the foundation of the fiscal measures to which, in the event of our ultimately having to fill whole estimated deficit of 3½ crores, we would be obliged to have recourse. For, as I carefully pointed out in my speech of 1st March,

when the present Bill comes into operation we shall have at our disposal, not merely an additional revenue, but an additional source of revenue.

"The question of the imposition of the cotton-duties was practically the question between these two methods of procedure—the question between the final adoption of a complete scheme, intended to re-establish our finance, even at the present diminished value of the rupee; and the adoption of a scheme, admitted to be a partial remedy only, but offering possibilities of extension hereafter, if that farther experience, for which we must in any case wait before knowing what our real permanent financial condition is, should show that it is necessary for us to make further provision for our needs.

"This is the question which came before the Government of India and, so far as I am in a position to judge, from the tenor of our communications with England, before Her Majesty's Government in England. In dealing with it we, on our part, necessarily had before us the past history of the cotton-duties. The action of the Government in respect of these duties was taken under instructions received in consequence of resolutions passed by the House of Commons. The first of these, which it is unnecessary to say did not open a new question but was a pronouncement upon a matter that had been receiving public attention, was dated 11th July, 1877, and was in the following terms:—

'That, in the opinion of this House, the duties now levied upon cotton manufacture imported into India, being protective in their nature, are contrary to sound commercial policy, and ought to be repealed without delay so soon as the financial condition of India will permit.'

"This resolution was transmitted by the Secretary of State as an instruction to the Government of India.

"Two years later, a partial remission of these duties having taken place, another resolution was passed by the same House, under date 4th April, 1879. It was in these terms:—

'That the Indian import-duty on cotton goods, being unjust alike to the Indian consumer and the English producer, ought to be abolished, and this House accepts the recent reduction in these duties as a step towards their total abolition to which Her Majesty's Government are pledged.'

"The policy of this resolution was, as is well known, carried into effect, and we have loyally stood by it for fifteen years, comparatively few of which have been free of financial difficulty.

"While this resolution of the House of Commons stands on record, we must admit that the question of these duties is not open to our discretion in the same sense as the duties on other articles of the tariff. The question, however, was taken up and anxiously discussed by the Government of India whether the present circumstances constituted such financial stress as would warrant us in reversing the policy of fifteen years, or rather in claiming that the conditions attached to the resolutions themselves—*viz.*, the ability of the finance to stand the strain—had ceased to be effective.

"I have stated to the best of my ability the question as it presented itself to our minds, and as I presume also to the minds of Her Majesty's Government. It is useless for me to enter further upon a discussion of what may be said on the two aspects of the question.

"I have listened with instruction to the arguments in favour of cotton-duties put forward by the mover of the amendment. If the matter were left to my discretion, I dare say I would incline in the direction of the Hon'ble Member's amendment. It is so much more easy for a Finance Minister to work with flowing treasuries, and to be able to meet this demand and that demand, which I am obliged to admit to be necessary in the interests of the public service. It is so much better for my personal reputation to present a budget in which, with the acclamation of the tax-payers themselves, I have taken heroic measures to make our revenue sufficient for our expenditure. I look forward with dread to my duties in the coming year, to my being obliged to refuse every demand that comes before me, however strongly backed. I admit that I have to come down from the regions of high finance to grovel, as Sir Griffith Evans says, among fish-maws and shark-fins; but these articles, notwithstanding their obnoxious name, will bring me in sufficient revenue to pay the salary of a High Court Judge for half a year, and I prefer to regard the rupees rather from the standpoint of their noble use than from that of their ignoble origin. Every consideration would induce me, personally, to support the proposal to fill my treasuries with the duties levied on cotton. But I admit there are arguments on the other side. Like any other question of imperial policy, the matter is one for the decision of Her Majesty's Government, and I stated that decision on 1st March in words which were carefully chosen so as to express what I understood to be its precise effect. The decision was explained in my speech, and I think it was also explained by Her Majesty's Secretary of State on a recent public occasion (for which, however, I have only the authority of the public telegrams), to have been come to purely with reference to present

circumstances. We accept the conditions of severe economy and retrenchment which it imposes upon us for the next twelvemonth; but it is a state of financial strain which, though it may be possible to endure it for that period of time, will certainly demand relief at the end of it, unless that relief comes to us in the shape of an unexpectedly rapid recovery of the value of the rupee.

"I am anxious to clear up one misapprehension as to my meaning on 1st March. I was desirous to explain exactly what the fiscal question in my opinion was, and I referred to the difficulties of imposing a countervailing excise-duty in India. It seems to have been thought that I wished to urge that this difficulty was a reason, either to my mind or in the opinion of the Secretary of State, for refusing to impose these duties. I do not know how far these considerations may weigh with the authorities at home. But, speaking for myself, I do not admit the validity of the objection made to the duties on the ground of their protecting an Indian industry against a foreign one. I shall not enter upon the question whether that course of procedure, if it were adopted, would be so wicked a course after all. I need only say that India as a manufacturing country is not yet out of her tutelage, and, if any industry in the world deserves protection, it is the cotton industry of India, the only real indigenous industry which has sprung up in this country—an industry, moreover, on which our present currency difficulties have compelled us, in the interests, as we believe, of the country generally, to inflict a certain amount of injury. But, however we may admire free trade as a goal to be aimed at, we must not, when we are driven to the imposition of import-duties, be too ready to raise the cry of protection. As Sir John Strachey said in 1878, India, by the extent and favourable conditions of its territory, is capable of producing almost every article required for the use of man. He argued thence that any import-tariff in India must be actually and potentially protective; and that as countervailing excise-duties were generally costly, vexatious and inconvenient, and in India in most cases impracticable, it was a hopeless task to construct a tariff for India which could be theoretically free from the protective objection. If, therefore, we require the money (as is the case at present), and are compelled to have recourse to import-duties in order to raise it, we must not set up for ourselves an impossible standard, and regard the possibility of protective action as an argument against the validity of the tariff.

"I quote the following passage from Sir William Muir's speech in introducing the Tariff Bill of 1875:—

'No doubt the argument is theoretically correct that, where a commodity is produced at home, we should either free the import of that commodity, or excise its produc-

tion to an extent equivalent to the import-duty, or altogether prohibit its production. But, if Hon'ble Members will cast their eye down the import schedule, they will find hardly any article which, in consequence of the vast area and varying conditions of our soil and climate, cannot be more or less produced in some part of our dominions. The argument, however perfect in theory, would prove too much in practice; for I presume no one will contend that, in deference to mere theory, we should surrender our whole revenue on imports of £1,700,000. And, in point of fact, the duty is so low that it cannot perceptibly affect the trade. This was evidently the opinion of Mr. Laing. In his Financial Statement of 1861, when vigorously denouncing all protective duties, and asserting that they "certainly could not be maintained for a couple of years," he at the same time admitted an exception where the import-duty was "so small that it would be palpably not worth while to establish a countervailing system of excise." The duty on cotton piece-goods was then 10 per cent., and that on yarn (reduced by him to) 5 per cent.; it is now but 5 and 3½ per cent., respectively. His views are still more explicitly stated in the following passage delivered on the same occasion:—

"Free trade does not mean that there shall be no taxes; but that taxes shall be levied solely with the view to revenue, and not partly for revenue and partly for protection.

"That every customs-duty on an imported article should have a corresponding excise-duty on similar articles produced at home has therefore become an axiom; and it admits of only one exception, where the amount of import-duty is so moderate that it does not seriously affect trade, while it makes it obviously inexpedient to establish an excise machinery for the sake of levying a trifling duty.

"This is the case with regard to corn in England, where a duty of 1s. a quarter, equal to 5 per cent. on the cheaper sorts of foreign grain is retained, and it is precisely our case with regard to piece-goods."'

"I do not admit that the Manchester trade is so reduced in the world that it can no longer fight a fair fight. In respect of most of the Manchester products India cannot compete; the finer goods which Manchester mainly sends out to this country are beyond the power—at present at least—of Indian manufacture. India in fact cannot produce the cotton requisite for their manufacture; the climate too, as I understand, is in some cases unsuited to the processes involved. The provinces of Indian manufacture and of Manchester manufacture to a certain extent overlap, but the area which Manchester occupies, and must continue to occupy, without competition, is very wide and comprehensive. I would appeal to the Manchester manufacturers themselves to be content with the unrivalled position which their manufactures occupy, and must continue to occupy, in this country, and not to think that their maintenance of it depends upon their enjoying exemptions and privileges in India which they would never dream of asking for in any other British dependency.

"When, therefore, I stated my opinion that an excise-duty involved in India very considerable difficulties, I stated it merely by way of clearing the issues that arise in the case. If the question of the cotton-duties comes up again, as I presume it will if our finances do not improve, it is quite possible, in

my opinion, to discuss its admissibility apart from any question of countervailing excise; for I do not hold that a tax of the kind is such a necessary support to a moderate import-duty that the inadvisability, or even impracticability, of an excise-duty is a proof of the impossibility of a customs-duty.

"And now, my Lord, with reference to my own vote upon the question. I have to bear in mind that the Government of India itself is a creation of an Act of Parliament, invested with definite powers, and subjected to certain restrictions. We have done our duty in laying the question before Her Majesty's Secretary of State, who, I believe, is fully informed on the subject, and we have taken his decision. That decision he has the constitutional power to communicate to us, and to enforce upon us, even if we do not admit the validity of the arguments which have commended it to him. My duty is to support the decision thus constitutionally arrived at—especially seeing that it has reference only to the question of present finance—and I shall vote against the amendment before the Council."

The Hon'ble SIR CHARLES PRITCHARD said:—"My Lord, I cannot give a silent vote on this amendment, and if I speak at all I cannot consent to conceal my personal opinion on the important subject now under discussion. I feel bound to state that opinion, and then to explain the reasons that impel me to give a vote on this amendment which runs counter to it. My own views regarding the exclusion of cotton goods from taxation under the Indian Tariff Bill are closely allied to those expressed by the Hon'ble Member who has moved the amendment. I should have preferred a measure that would have brought into the Government treasury a more substantial revenue—one that would have effected a greater improvement in our financial position, and have enabled us to avoid part, at any rate, of the impending retrenchments of State expenditure on Railways and Irrigation works. I should have preferred a measure that would have imposed import-duties on a few of the articles of foreign manufacture which the people of India most largely consume and have left free the smaller items, the subjection of which to tariff-duties will only bring in a small amount of revenue, at the cost of some trouble to the trade in its collection; and one that followed more closely the wishes of Indian tax-payers regarding the shape in which they should make their contributions to the Exchequer. But I sit in this Council, not as an independent member, but by virtue of the office I hold as a member of the Executive Council of the Governor General. The Government of India is not an autocratic and independent authority, but is subject to the control and direction

of the Home Government. In matters relating to Indian taxation, it is the constitutional duty of the Government of India to formulate proposals in Executive Council, and to submit the proposals it approves to the Home Government, which, in its wisdom, accepts, modifies or rejects those proposals. The duty of giving effect to the decision arrived at by Her Majesty's Government then rests on the Government of India. It was under these prescriptions that the Indian Tariff Bill assumed the shape in which it was introduced into this Council by my hon'ble friend the Finance Member. The question whether cotton goods should be included in, or excluded from, the Tariff schedules was anxiously considered by the Executive Council, and certain representations on the subject, in which I most heartily concurred, were on more than one occasion submitted to the Secretary of State. Her Majesty's Government has considered those representations and, viewing the subject from the wider standpoint of Imperial policy and in its relation to the interests of the Empire as a whole, has decided against the inclusion of cotton goods in the schedules of the Indian Tariff Bill. I must accept that decision and take my part in giving effect to it, and shall vote accordingly against the amendment."

The Hon'ble LIEUTENANT-GENERAL BRACKENBURY said :—"My Lord, I am personally of opinion that in the present financial situation it is desirable, in the interests of India, that import-duties should be imposed upon certain classes of cotton goods, but I intend to vote against the amendment proposed by my hon'ble friend Mr. Playfair ; and with Your Excellency's permission I will state the reasons why I shall thus vote.

"At a public meeting held in Calcutta on Thursday last, in proposing a resolution, which has been forwarded to Your Excellency's Government, calling upon this Council to reject the Indian Tariff Bill, unless it be amended so as to include cotton fabrics, the mover appealed to the members of Your Excellency's Executive Council to vote according to their judgment and conscience. It is my intention to vote according to my judgement and conscience. I cannot conceive that any member of Your Excellency's Executive Council would vote gainst his conscience, though he may often, in deference to the views of the majority of his colleagues, subordinate his personal judgment to theirs; or though he may, in concert with his colleagues, subordinate his personal judgment to that of Her Majesty's Government. Every member of Your Excellency's Executive Council holds his appointment under the sign manual of Her Majesty the Queen-Empress, whose constitutional power is exercised by Her Majesty's Government; and for my own part I cannot think that, as a member of that

Council, I should be justified in voting against the orders of Her Majesty's Government. In the unlikely event of orders being received from Her Majesty's Government which I could not obey consistently with the dictates of my conscience, self-respect would impel me to what, in my opinion, would be the only course open to me, the resignation of the appointment which I hold.

"If, for example, orders were to be issued that, rather than impose additional taxation, military expenditure was to be cut down to a point which would, in my conscientious opinion, endanger the safety of British rule in India, I should consider it my duty to resign my post on Your Excellency's Council, because I could not become a party to what my conscience would tell me I ought not to consent to. But in this case my conscience gives me no such mandate.

"The broader question before us is whether import-duties shall or shall not be placed upon cotton goods. I have stated my own opinion that in the interests of India it is desirable that some such duties should be imposed. But Her Majesty's Government have wider interests to look to than those of India alone. Their range of vision is a wider one than ours. They are responsible to Her Majesty for the government of Her Majesty's Empire as a whole; and knowing all the circumstances of this case, knowing the opinions which have been expressed here on this subject, and the feeling shown at public meetings in India, Her Majesty's Government have decided that such duties should not at present be imposed; and I do not consider that, even if the amendment before us raised the direct question whether cotton goods should or should not be subjected to import-duties, I should be justified in pressing my own opinion against this deliberately expressed decision of Her Majesty's Government to the extent of resigning my post at such a time. The Government treasuries are full. There is no question of imminent financial danger or bankruptcy. The most that the immediate imposition of the cotton-duties would do would be to enable us to dispense with certain retrenchments of expenditure, which are to be regretted, or to prevent our decreasing the balance at our disposal. But the financial future is uncertain; and it seems to me that, holding such opinions as I have expressed, it is my duty to remain at my post, and, unless the financial situation improves, endeavour, by such constitutional means as are open to me, to bring about a change in the views of Her Majesty's Government.

"I have thus dealt with the question, which lies at the root of Mr. Playfair's amendment, as a question of conscience only; but, when I consider what the amendment itself is, and what would be the results of accepting it, my judgment tells me that I am right in voting against it. The amendment is 'that

the Bill be recommitted to the same Select Committee.' What, my Lord, would be the result of accepting this amendment, even if the Select Committee were to consent to include cotton-duties to an extent which would satisfy the mover of the amendment, and if their Report were to be accepted, and if the Bill, thus amended, were to be passed in this Council? We have the certainty that Her Majesty's Government would refuse to allow the Bill to come into operation. The only result of such a course would be, therefore, to prevent the Government of India from imposing such import-duties as it is allowed to impose, to prevent its providing so far as it can for the deficit which it has to face, and to increase the difficulties of the financial situation and the embarrassment in which the Government of India is already placed. To such action I could not be a consenting party, and for these reasons it is my intention to vote against the amendment to recommit the Bill, and in favour of the Report of the Select Committee being taken into consideration."

His Excellency THE COMMANDER-IN-CHIEF said:—"My Lord, following the example which has been set me by other Members of your Lordship's Council, I am anxious to state, but very briefly, the reasons that actuate me in voting against the amendment proposed by the Hon'ble Mr. Playfair.

"In the public discussions that have taken place on the Bill there have not been wanting what I may describe as challenges to members of Your Excellency's Council to vote according to what the speakers assume are the convictions of those members in this case; and it may give colour to the inferences which must be drawn from such challenges if I vote without giving reasons for the view I support. The speakers have confined themselves principally to the question of the exclusion of the cotton-duties in the abstract, without giving due weight to the most important surroundings of that question in the present connection.

"If India had an independent national existence and we were its supreme Government, as one hon'ble Native Member on the opposite side of the table seems to think when he speaks of a reference lately made by the Secretary of State to the views of the Government of India as if that Government only embraced Your Excellency's Council, there would be more force in these arguments; but it is hardly necessary for me to state that this is the exact opposite of the actual conditions, and to act as if we were independent is to shut our eyes to what is the practical political aspect before us, and to run off the line into vagaries which must inevitably lead to a deadlock.

1894.] [*The Commander-in-Chief; Mr. Playfair; the President.*]

"I am glad to say India must still be looked upon and legislated for as a component part of the British Empire, and its wants and interests must be weighed in the balances of imperial considerations. If the interests of each component part were left to its representatives to appraise and to enforce according to their own standard of relative importance, I fear there would be practical difficulties in working the Empire as a whole.

"The British Empire in India is dependent for its very existence on the material aid and support which it receives from Her Majesty's Government. Such dependence has, both in its political and ethical aspects, certain natural obligations, and the first of these obligations is subordination to imperial interests. These interests must be judged, not by the representatives of any part of that Empire, but by Her Majesty's Government who are responsible for the whole I believe my duty as one of Your Lordship's Council to be confined to the strongest representation of what, in our more intimate local knowledge, we consider for the best interests of this great Indian Empire, and having so acquitted myself to accept loyally the decision of Her Majesty's Government. I am further convinced that to attempt to govern India on any other principle is to wander from what is practical and safe into what is fantastic and dangerous.

"I am therefore voting according to my conscience and the best of my understanding in opposing the amendment proposed by the Hon'ble Mr. Playfair."

The Hon'ble MR. PLAYFAIR said:—"My Lord, I would only wish to remark that I have listened with the greatest interest to the speeches which have been delivered by Hon'ble Members during this discussion. Whatever the result of the voting may be, I think I may claim a moral victory, and under the circumstances I do not regret having put forward this amendment in the Council."

His Excellency THE PRESIDENT said:—"Before a vote is taken on the amendment, I desire to say only a very few words. I do not think that any good purpose would be served by my entering upon the general debate, or renewing the arguments which my hon'ble colleague, who is in charge of the Bill, has put before you in support of the proposal that the Bill now before the Council should be passed. Still less shall I enter upon any of the personal considerations which have come somewhat prominently before the Council on this occasion. I agree with the main points of the description of individual responsibility which have been given by General Brackenbury. For myself, however much I may regret that the first large measure which has come before

the Council since I have had the honour of presiding here is one that has given rise to so much dissatisfaction, I think there is no one who will doubt that my duty in the matter is plain. The point which I wish to impress upon the Council is this, that it must not be supposed that those concerned in the government of the Indian Empire, either in this country or in England, were not aware that objections could be taken to the form of the proposals embodied in the Bill before the Council. The Acts of Parliament prescribe the procedure by which decisions such as that involving taxation are arrived at, and you may take it that all the proper procedure has been faithfully observed, and that the Bill before us is the result of a decision constitutionally arrived at.

"At the same time, we, who have been entrusted with the government of India in this country, have recognized that in a case like this, where, as in all matters of taxation, it is impossible to allow much time for the various stages of a Bill, it was our duty to obtain for ourselves, and for Her Majesty's Government, all the information available as to the course of public opinion in reference to this measure.

"It has been evident that the very deepest interest has been taken in this measure by all sections of the community, and in all parts of the country. And I do not think I am exceeding my duty in saying that, so far as my observation goes, this keen interest has found an expression perfectly legitimate, and not exceeding the limits of fair discussion.

"I think I can assure you that the views entertained in this country, to which public expression has been given both before and since the introduction of this Bill, have been communicated to the Secretary of State, and fully considered by Her Majesty's Government; and I am able further to state that if after an interval sufficient to judge of the position as affected by the Tariff Act, the course of exchange, and other circumstances, there is no improvement, Her Majesty's Government will be prepared to receive a further representation on the subject.

"In the meantime it has not been possible to alter the arrangements already announced, and it is, therefore, our duty to ask the Council to proceed now with the Bill, and to pass it through its remaining stages.

"The question which I have to put to the Council is 'that the Bill to amend the Law relating to Customs-duties and for other purposes be recommitted to the same Select Committee.'"

The Motion being put, the Council divided :—

Ayes.	*Noes.*
The Hon'ble Mr. Playfair.	The Hon'ble Mr. Lee-Warner.
The Hon'ble Gangadhar Rao Madhav Chitnavis.	The Hon'ble Mr. Clogstoun.
The Hon'ble the Mahárájá of Ajudhiá.	The Hon'ble Dr. Lethbridge.
The Hon'ble the Mahárájá of Durbhanga.	The Hon'ble Mr. Stevens.
The Hon'ble Fazulbhai Vishram.	The Hon'ble Sir Antony MacDonnell.
The Hon'ble Sir Griffith Evans.	The Hon'ble Mr. Westland.
The Hon'ble Dr. Rashbehary Ghose.	The Hon'ble Sir Charles Pritchard.
	The Hon'ble Lieutenant-General Brackenbury.
	The Hon'ble Sir Alexander Miller.
	His Excellency the Commander-in-Chief.
	His Honour the Lieutenant-Governor.

His Excellency THE PRESIDENT observed that he did not consider it necessary, under the circumstances, to record his vote.

The Motion was therefore negatived.

The Hon'ble MR. WESTLAND'S Motion that the Report of the Select Committee be taken into consideration was then put and agreed to.

The Hon'ble MR. WESTLAND moved that the Bill, as amended, be passed. He said :—"I cannot but acknowledge that it will be impossible to bring a new Tariff Act into force without causing a certain amount of friction between merchants on the one side and Government officials on the other. A number of points are certain to arise, in practice, in which the views of these two bodies will necessarily be different. We have, however, received from the mercantile community such an amount of support in our general policy of reviving the Tariff that we shall certainly strive to do nothing to forfeit that support in our administration of it. We may expect that our officers will find some difficulties arise when they begin to exercise the new duties which the law just about to be passed imposes upon them. But I feel sure that I may confidently ask for the exercise of a little patience until matters settle down to routine. My duty is necessarily, first of all, to the Exchequer, but, subject to that first consideration, I shall certainly do my best, and I am sure that the Governments more immediately connected with the administration of the Act will do the same, to ensure that the revenue we seek shall be obtained with the least possible inconvenience to the trading community, and the least possible interruption of the flow of commerce.

"And now, my Lord, one word of a personal character before I conclude my remarks. I have taken charge of Indian finance at an especially anxious time—a time when I need all the advice and all the information that can be made available to me. I have over and over again had to ask that advice and assistance at the hands of some of my old friends and some new friends among the merchants and bankers of Calcutta. I wish to publicly express my obligations to them for the manner in which, sometimes at personal inconvenience, they have responded to my enquiries, and for the manner in which they have dealt with me when they came of their own motion to talk with me over matters relating to my work. I am the more anxious to do so in this public fashion, because very frequently in these matters my tongue has been tied, and I have been unable to show them, at the time, my appreciation of their counsel. It has been my duty, on several occasions during these last few months, to inform Your Excellency's Government of the state of matters in the commercial world; and I would wish the gentlemen at whose hands I have from time to time sought information to understand that, although they may not always see to what use the information they have given us is put, it is none the less appreciated both by Your Excellency's Government and myself. I trust they will continue to believe that we set a high value upon their support, and will continue to give us their advice and assistance, even though occasionally they are not able to concur in our policy."

The Motion was put and agreed to.

The Council adjourned to Thursday, the 15th March, 1894.

S. HARVEY JAMES,
Secretary to the Government of India,
Legislative Department.

CALCUTTA;
The 16th March, 1894.

Government of India Central Printing Office.—No 551 L. D.—16-3-94.—320.—E. H.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Government House on Thursday, the 15th March, 1894.

PRESENT:

His Excellency the Viceroy and Governor General of India, P.C., LL.D., G.M.S.I., G.M.I.E., *presiding.*
His Excellency the Commander-in-Chief, K.C.B., G.C.I.E., V.C.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble J. Westland, C.S.I.
The Hon'ble Sir A. P. MacDonnell, K.C.S.I.
The Hon'ble Dr. Rashbehary Ghose.
The Hon'ble Fazulbhai Vishram.
The Hon'ble C. C. Stevens.
The Hon'ble A. S. Lethbridge, M.D., C.S.I.
The Hon'ble Gangadhar Rao Madhav Chitnavis.
The Hon'ble H. F. Clogstoun, C.S.I.
The Hon'ble W. Lee-Warner, C.S.I.
The Hon'ble P. Playfair.
The Hon'ble Mahárájá Partab Narayan Singh of Ajudhiá.

PRISONS BILL.

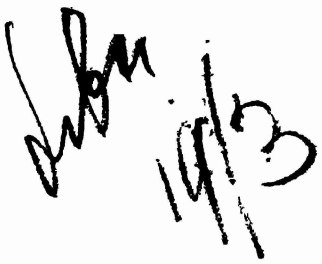
The Hon'ble SIR ANTONY MACDONNELL presented the Report of the Select Committee on the Bill to amend the law relating to Prisons. He said that, with His Excellency the President's permission, he would move this day week that the Report and Bill be taken into consideration by the Council.

The Council adjourned to Thursday, the 22nd March, 1894.

S. HARVEY JAMES,
Secretary to the Govt. of India,
Legislative Department.

CALCUTTA;
The 16th March, 1894.

Government of India Central Printing Office.—No. 570 L. D.—16-3-94.—320.—E. H.



Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Government House on Thursday, the 22nd March, 1894.

PRESENT:

His Excellency the Viceroy and Governor General of India, P.C., LL.D., G.M.S.I., G.M.I.E., *presiding.*

His Honour the Lieutenant-Governor of Bengal, K.C.S.I.

The Hon'ble Sir A. E. Miller, KT., Q.C.

The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.

The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.

The Hon'ble J. Westland, C.S.I.

The Hon'ble Sir A. P. MacDonnell, K.C.S.I.

The Hon'ble Sir. G. H. P. Evans, K.C.I.E.

The Hon'ble Fazulbhai Vishram.

The Hon'ble C. C. Stevens.

The Hon'ble A. S. Lethbridge, M.D., C.S.I.

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The Hon'ble H. F. Clogstoun, C.S.I.

The Hon'ble W. Lee-Warner, C.S.I.

The Hon'ble P. Playfair.

The Hon'ble Mahárájá Partáb Narayan Singh of Ajudhiá.

QUESTIONS AND ANSWERS.

The Hon'ble GANGADHAR RAO MADHAV CHITNAVIS asked:—

(1) Whether it is the fact that in the Central Provinces Sir Richard Temple, as Chief Commissioner, with the sanction of the Supreme Government, promised in public print a perpetual limitation of the Government demand on fulfilment of certain conditions?

(2) Whether it is the fact that, after sanction of such policy by the Supreme Government, Sir Richard Temple, as Chief Commissioner of the province publicly declared such policy to the people in public Darbars? If so, will the Government be prepared to confer perpetual limitation of the Government demand on such landholders as may have fulfilled the conditions laid down by Sir Richard Temple at the time, and who may come forward to ask for the settlement of such demand in perpetuity?

The Hon'ble SIR ANTONY MACDONNELL replied : –

" The proposal to make a permanent settlement of the land-revenue in India has been from time to time discussed; and in 1862 Sir Charles Wood, then Secretary of State for India, invited the Government of India to consider to what extent a permanent settlement could be immediately applied throughout the different provinces. In consequence enquiries were instituted, and it was apparently in connection with these enquiries that in his Administration Report on the Central Provinces for 1862-63 the Chief Commissioner, Sir Richard Temple, wrote :—

'The period over which the limitation of the Government demand, according to the new assessment, is to extend is thirty years for all districts alike. This has been sanctioned by Government. It has also been recommended that the boon of a permanent settlement, that is, the limitation of the Government demand in perpetuity, should be conceded to those landholders who might have brought their estates to a high state of cultivation. The Government have decided that after the lapse of ten years from the commencement of the new settlement, and therefore even within the period of that settlement, those landholders who may be thought worthy of the concession, and who may desire a perpetual limitation of the Government demand, may have their assessments revised with a view to such limitation in perpetuity being declared.'

" But the policy of the Government of India on this question had not been finally settled as Sir Richard Temple had supposed : a correspondence ensued in which the advantages of a permanent settlement of the province became more and more doubtful, and finally, in February, 1864, Lord Lawrence's Government declared that (I quote their words), 'bearing in mind the circumstance that much of the Central Provinces consists of a new country, that many of the Government officers are inexperienced in fiscal matters, and, lastly, that the Secretary of State has agreed that permanent settlements are not expedient in this Province, His Excellency in Council would not sanction their being made.'

" I have been unable to ascertain that Sir Richard Temple ever made in public Darbar any such declaration or promise as that stated in the Hon'ble Member's question; but, if he did, it is quite clear that he had no valid authority to make it.

" Sir Charles Wood's orders of 1862, to which I have referred, were suspended by the Duke of Argyll when Secretary of State in 1871, and were finally withdrawn by Lord Kimberley when Secretary of State in 1883 in the following words : 'I concur with Your Excellency's (Lord Ripon's) Government that the

policy laid down in 1862 should now be 'formally abandoned.' In these circumstances the Government of India are not prepared to re-open the question of making a permanent settlement of the land-revenue in the Central Provinces."

The Hon'ble GANGADHAR RAO MADHAV CHITNAVIS asked :—

(*a*) Whether it is the fact that the receipts from the Patwari Fund constituted under section 144 of the Central Provinces Land-revenue Act, 1881, have always exceeded the expenditure debitable to it?

(*b*) Whether it is the fact that the balance (after meeting all charges) to the credit of this fund at the close of the official year ending 31st March, 1892, amounted to ₹3,95,000?

(*c*) Whether patwaris employed under the Act have been largely utilized in settlement work?

(*d*) Whether or not such number of patwaris could be conveniently reduced if strictly confined to village work for which they have been appointed under the Act?

(*e*) Will the Government be pleased to ask the Chief Commissioner to consider whether the rate realized from the proprietors and tenants for remunerating the patwaris might be regulated so as to make the receipts exactly equal to the expenditure?

The Hon'ble SIR ANTONY MACDONNELL replied :—

"The answers to the Hon'ble Member's question are—

(*a*) Not always; but generally there has been an excess of receipts over expenditure. For the five years ending March, 1893, the receipts of the Fund have been ₹20,88,593 and the expenditure ₹18,36,862.

"(*b*) The balance to credit of the Patwari Fund on 31st March, 1892, is reported by the Comptroller General to have been ₹3,95,943; but no recoveries for cost of supervising establishments have yet been made from the Fund under section 146A of the Land-revenue Act in respect to districts of which the re-settlement has not yet been completed. In such districts the cost of these establishments has hitherto been paid from Provincial revenues. If these recoveries are made, the balance will be largely reduced.

"(*c*) Yes. It is the patwari's duty to assist in settlements, but, if the Hon'ble Member's question points to the employment of patwaris outside the limits

of their own villages, I may say that such employment when it occurs is temporary, and devised with the object of promoting greater despatch in the work, and reducing the costs of the proceedings in the tahsil or circle. It ceases with the completion of the preliminary stages of the re-settlement operations.

"(*d*) and (*e*). On completion of the re-settlement of a district the usual procedure is to fix the circles within which the patwaris shall exercise their functions. This is done with strict regard to economy, and no larger staff of patwaris is entertained than is necessary. When the number of patwaris and of the supervising establishments is fixed, the cost is calculated and the rate of cess adjusted, so that income and expenditure shall balance as nearly as possible. No further orders on the point seem to be called for."

The Hon'ble GANGADHAR RAO MADHAV CHITNAVIS asked :—

(*a*) Is it not the case that short-period settlements have been denounced in very strong terms in several despatches by the Secretary of State, the Government of India, and such officers as Sir Auckland Colvin and Sir Richard Temple?

(*b*) Whether it is the fact that the period of settlement in the Central Provinces has been lowered down during the current settlement in some districts even so low as only eleven or twelve years?

(*c*) Is Government aware that such policy has been the source of greatest anxiety and dissatisfaction to the people in the province? If so, will the Government be pleased to reconsider this policy and to extend the periods of the current settlements to reasonably long periods or at least to their former period?

The Hon'ble SIR ANTONY MACDONNELL replied :—

"It is the case that short-term settlements have been at various times objected to by various authorities, and the Government of India are not in favour of short-term settlements unless in exceptional cases, as, for example, when a tract of country hitherto inaccessible to trade is being opened up by a railway.

"It is the fact that the term of the current settlement in some districts of the Central Provinces has been fixed at about twelve years. One reason for this is that these districts were being opened up or tapped by the construction of railways, which have already produced a very great increase in the prices of agricultural produce and given an impetus to cultivation and progress

in those districts. At the end of ten or twelve years the first effects of such improvements will have worn off, and a more normal state as regards prices and agriculture will have been reached. If in these circumstances the term of the settlement had been long, the State would lose its fair share of the profits accruing to the districts by the construction of the railways. The rest of the country would then have to contribute that portion of the public burden which in equity should fall on the districts which have especially and largely profited from the public expenditure.

"I may here mention that an improved system of settlement procedure has been introduced, which provides for the continuous maintenance of village records-of-rights, and thus dispenses with the necessity for re-measurements and re-valuations of the soil at each revision of the contract, and saves the people all the harassment which has been looked on as one of the great objections to short-term settlements. It is a part of this new system that the re-settlement of each district is taken in hand in turn, and not of all simultaneously. This arrangement can only be brought about by making the settlement now in progress run for different terms in different districts, that is, by establishing a proper roster for the future. Thus, if the re-settlement of the Raipur District will run from twelve to thirteen years, that of the Bhandara District will probably run from twenty to twenty-three years.

"The Government of India are aware that the landowners of the Central Provinces wish for long-term settlements, and Your Excellency's Government desire to treat this wish with as much consideration as the general circumstances permit. The settlement now in progress in the Central Provinces may be regarded as a process of transition and as laying the foundation for a more settled system of fiscal administration."

The Hon'ble MR. PLAYFAIR asked :—

Whether a copy of the despatch from the Government of India to the Secretary of State on the subject of the proposed amendment of the law relating to Common Carriers in India, and dated Simla, the 13th June, 1893, was sent to the representatives of the Steamer Companies who memorialised Government on the matter with a portion of such despatch erased, and whether the Government will lay a copy of the despatch in full and the answer in full before the Council.

The Hon'ble SIR ANTONY MACDONNELL replied :—

"The answer to the first part of the question is yes. The Companies' solicitors applied on the 6th January for a copy of the despatch in question and a copy was sent them with the following remark :—'The last paragraph of the despatch refers to an individual opinion, and is omitted.' The answer to the last part of the question must be, I regret to say, in the negative, because the paragraph in question did not express the opinion of the Government, with which alone the Companies are concerned."

FINANCIAL STATEMENT FOR 1894-95.

The Hon'ble MR. WESTLAND said :—

"In accordance with the Statutory Rules for the discussion of the Financial Statement of the Governor General in Council, I have caused a printed copy of the Financial Statement of 1894-95 to be delivered to each Member; and I proceed to submit to the Council the explanations I desire to offer with reference to it. Following the example set last year by Sir David Barbour, the prescribed Financial Statement will form the Second Part of the published compilation, and will set forth and explain in detail the various figures of the receipts and outgoings of the Government, being intended both for the information of the public, and as a permanent official record of the financial arrangements and prospects of the current and the approaching year. My accompanying explanation, which will form the first part of the compilation, is intended to give Hon'ble Members a more general view of the accounts and estimates, leaving fuller information regarding the details to be sought for in the more elaborate compilation, which has been printed and distributed in accordance with the rules.

"I have so recently had occasion to lay before Hon'ble Members a review of our recent and present general financial position that I am to a certain extent discharged from the obligation to look on this occasion beyond the figures of the three years, the finance of which I have to explain, *viz.*, the past year, the current year and the coming year. I do not think that any Finance Minister has yet had the evil fortune to present figures which for all three years shew a deficit of Revenue, but I shall not waste the time of the Council in again going over the ground covered by the statement I laid before them three weeks ago, and bemoaning the adverse fate which a continually dwindling rupee imposes upon us. I pass at once to the consideration of the accounts and estimates which it is my duty to explain.

"ACCOUNTS, 1892-93.

"The accounts of 1892-93, as finally made up, shew a deficit of Rx. 833,412, as compared with the deficit in the Revised Estimate of Rx. 1,081,900. The improvement, which amounts to Rx. 248,488, is composed of a number of small differences scattered over both the Revenue and Expenditure heads, none of which are large enough to require particular mention. In short, the Revised Estimate presented to the Council twelve months ago represented as accurately as an estimate could be expected to do the outturn of the year. The accounts were made up at an exchange a little less than 1*s.* 3*d.* per rupee; the total amount of Council Bills drawn during the year being £16,532,215 at the average rate of 1*s.* 2·985*d.*

"The usual appropriation report, containing the Comptroller and Auditor General's review and comparison of the estimates and accounts of the year, was published in last week's Gazette of India; and with it the year's accounts are consigned to past history.

"REVISED ESTIMATES, 1893-94.

"As compared with the Revised Estimates for 1892-93, which we have seen were very accurately justified by the final figures, the Budget Estimate of 1893-94 provided under *Revenue* heads for better Land Revenue Rx. 299,600, worse Opium Revenue Rx. 650,300, worse Salt Revenue Rx. 60,800, better Railway Revenue Rx. 487,500, and a number of minor differences. In the aggregate the difference was a difference for the worse of Rx. 15,500.

+	299,600
—	650,300
—	60,800
+	487,500
Net —	76,000

"The Revised Estimates of 1893-94 shew that we have had a very favourable Land Revenue year, even after taking into account the fact that Rx. 207,200 of the increase comes in, in Madras and Bombay, by deduction from, or charge to, other heads. The return is about 25¼ crores, whereas we have never yet come up to 25, and is Rx. 335,100 in excess of Budget. But, on the other hand, the loss of Opium Revenue is by Rx. 621,800 greater than anticipated, and whereas the lowest figure recorded for many years has been Rx. 7,879,182, we this year estimate to receive only Rx. 6,694,400. The loss under Salt Revenue has been much greater than anticipated, being Rx. 241,600 as compared with Budget Estimates. On the other principal Revenue heads taken together there has been a gain as compared with Budget of Rx. 252,000. Railways have done extremely well during the year, the Revenue being taken at Rx. 654,800 better than Budget, and more than a crore better than last year.

+	335,100
—	621,800
—	241,600
+	252,000
+	654,800
Net +	378,500

"These differences and a number of minor ones give us a net improvement of Rx. 423,800 upon the Budget Estimates on the Revenue side,* of which Rx. 104,900 goes to Provincial account, leaving Rx. 318,900 for Imperial.

1,595,100
— 318,900
1,276,200

"The Budget Estimates of the year were for a deficit of Rx. 1,595,100 upon the year's account. With the improvement of Revenue which I have noticed, our Expenditure if kept within estimate would have brought out at the end of the year a deficit of only Rx. 1,276,200. Our deficit, however, stands at Rx. 1,792,800, or Rx. 516,600 greater than this figure. And indeed, as a short opium crop has saved us Rx. 370,100 on our estimated opium payments, I have really to explain Rx. 886,700 of excess of Expenditure over Estimate in 1893-94.

"The only heads of *Imperial Expenditure in India* which shew any noteworthy excess of Expenditure over Estimate are Interest on Debt (Rx. 159,500), Working Expenses of State Railways (Rx. 151,500), and the Army Expenditure (Rx. 318,300). The excess under the first represents for the most part the discount on the Loan raised in August, which amounted to Rx. 133,000. The excess Expenditure under the second arises in connection with the larger traffic already referred to. Of the Army Expenditure Rx. 263,500 is due to Exchange Compensation Allowances: there has also been expenditure in excess

159,500
151,500
318,300
629,300
— 89,000
540,300

of the Budget Grants of Rx. 21,500 for certain special military and political operations, of Rx. 48,100 for special expenditure in connection with the Gilgit Agency, and Rx. 26,700 for special purchases of horses and mules: on the other hand, savings are anticipated from some of the Budget Grants.

"We have saved Rx. 89,000 by short Expenditure upon Special Defences.

"The items I have mentioned account for excess Imperial Expenditure in India of Rx. 540,300. The smaller differences result in a net saving of Rx. 26,600, and the real excess in the total figures, after allowing for Opium, is Rx. 513,700, So that we have saved more than enough, in minor differences over the rest of the account, to pay for the Exchange Compensation Allowances to non-military officers. These were not included in the Budget, but are estimated at Rx. 137,800 under the non-military heads.

104,100
27,300
—66,000
Net . 65,400

"The *sterling expenditure* account compared with Budget Estimate shews £104,100 excess payments under Interest; excess marine charges £27,300; short charges for special defence works £66,000, giving, with a few smaller differences, a net excess of £65,800.

"The *exchange* upon the expenditure was estimated, at 1*s.* 2¾*d.*, to cost Rx. 9,935,900; it is now estimated at Rx. 307,200 more.

* I neglect for present purposes the fact that about Rx. 30,000 of this is due to the operation in 1893-94 of the new Tariff Act.

"Adding together these items, the deterioration which I have explained on the expenditure side amounts to the figure above stated, namely:—

	Rx.
Imperial Expenditure in India	513,700
Sterling Expenditure	65,800
Exchange	307,200
TOTAL .	886,700

and leaves the year's account in deficit by Rx. 1,792,800.

"I ought to mention, as a matter of some public interest in connexion with the estimates of 1893-94, that the Royal Commission on Opium is expected to cost in India about Rx. 20,000, and in England about £1,500; of these amounts, half will be charged to Indian Revenues. The smallness of the expenditure is for the most part due to the fact that the Commissioners (except the one who was placed on the Commission as an officer of the Government of India) neither required nor received any remuneration for their services, being determined that their laborious task should cost as little as possible to the people of India.

"BUDGET ESTIMATES, 1894-95.

"In explaining the Budget Estimates for 1894-95 I ask the Council first to go back to my statement that the Revenue in the Revised Estimates of 1893-94 falls short of the Budgetted Expenditure of that year by Rx. 1,276,200. Our revenue of the coming year is largely estimated upon the basis of the Revised Estimates of the current year, and I propose first to shew, as compared with those Revised Estimates, what additional Revenue under the same heads we may expect to come into our account during the year 1894-95.

"First, under the principal *Revenue* heads, the Estimates of Land Revenue show an increase of Rx. 211,300 upon the high figures of 1893-94; and Salt will, we hope, recover from its backward position of the current year, and bring us in an addition of Rx. 283,000. Under both these heads in fact we have some reason to think that certain short collections of February and March, 1894, will come into the accounts of April or May, that is, of 1894-95. On the other hand, we do not think it safe to take Opium at even the figure of 1893-94; our realisations are necessarily affected by the adverse exchange arising out of the low price of silver, and we estimate a falling-off of Rx. 300,800. The remaining principal heads show some increases and some decreases, but on the net account a decrease of Rx. 1,600, giving for this section of the accounts a net increase of Rx. 191,900. To this we have to add the estimated increase in Railways of Rx. 201,900 and in Irrigation of Rx. 144,200; but, on the other hand, we lose Rx. 160,400 under Mint Receipts (by reason of discontinuance of coinage). The net amount of all these is an increase of Rx. 377,600, which, by a number of minor differences under other

	+211,300
	+283,000
	−300,800
	−1,600
Net .	+191,900

	+191,900
	+201,900
	+144,200
	−160,400
	+377,600

heads, becomes Rx. 395,400. Of this total amount of increase of our revenues, Rx. 240,300 belongs to the Provincial account, and Rx. 155,100 to Imperial. In respect of Revenue, therefore, we expect on the Imperial account to be better off in the approaching year by only Rx. 155,100, as compared with the Revised Estimates of 1893-94; and the result therefore is that if we had on our expenditure side merely to meet the same Imperial expenditure that was provided for in the Budget of last year, we would be, with the revenue we anticipate, in deficit by Rx. 1,276,200, less Rx. 155,100, or Rx. 1,121,100.

"The deficit we will actually have to meet will be this amount *plus* any amount by which the expenditure for which we have to provide in the coming year exceeds that of the Budget Estimates of 1893-94. To find what this addition will be, take first the estimate of *Imperial expenditure in India.* The figures stand as follows:—

	Budget, 1893-94.	Budget, 1894-95.	Increase or Decrease.
	Rx.	Rx.	Rx.
Direct charges on Revenue	4,614,200	4,662,300	48,100
Interest	55,400	−113,400	−168,800
Post Office, etc.	2,081,400	2,073,200	−8,200
Civil Departments	3,134,500	3,240,100	105,600
Miscellaneous	688,400	700,000	11,600
Famine	1,119,300	1,121,200	1,900
Railway Revenue Account	11,597,400	12,061,100	463,700
Irrigation	1,349,300	1,373,200	23,900
Buildings and Roads	1,878,500	1,507,800	−370,700
Army	15,693,500	16,169,200	475,700
Special Defence	252,300	113,500	−138,800
TOTAL	42,464,200	42,908,200	+444,000

463,700
−168,800
294,900
28,500
139,800
41,600
−26,900
−77,400
Net 105,600

"The increases and decreases in this statement, which are less than Rx. 50,000, require no remark; they may be described as ordinary variations. The decrease under Interest merely means the transfer of more interest to the Railway Revenue account, the net increase under these two heads, Rx. 294,900, representing the additional working expenses and surplus-profits payments arising in connection with the larger traffic. Under Civil Departments we have a net increase of Rx. 105,600, of which the principal items are Rx. 28,500 under Administration (mostly Exchange Compensation allowance), Rx. 139,800 under Political (additional subsidy to the Amir Rx. 60,000, probable expenditure of

demarcation under the treaty Rx. 50,000, Exchange Compensation Rx. 23,400); other increases Rx. 41,600 mostly due to the Exchange Compensation; savings in Police Rx. 26,900 (chiefly in Upper Burma); and savings under Marine Rx. 77,400 (mostly counterbalanced by short receipts).

"The decrease of Rx. 370,700 under Buildings and Roads is due to economies forced upon us by our present financial condition. We have saved Rx. 194,200 by reducing the grant for Military Works, and Rx. 176,500 by cutting out practically every new work upon the Civil side (under India, General, and in Upper Burma) to which we are not absolutely committed.

"The Army expenditure shows, as compared with the estimates presented last year, an increase of Rx. 475,700. Of this amount, the variations in pay and allowances which depend upon Exchange alone account for Rx. 390,100.

"For apart from the question of Exchange Compensation, the pay of the British soldier is fixed in sterling, and the rupee payment depends upon the rate of exchange annually fixed for the adjustment of transactions with the English Treasury. That rate was for 1894-95 fixed, as usual, upon the basis of the rates actually current in December last (namely 15¼*d.*); but, owing to the peculiar circumstances of the year, the rate has been declared 'subject to revision hereafter, should it be deemed necessary, in consequence of the actual rate varying greatly from the official rate for any considerable length of time."

"The balance of the excess, or Rx. 85,600, is composed of several items, of which a fuller account is given in the second part of this statement.

"The *English expenditure* for which we have to provide is, on the whole account, £13,500 less than that of last year. We have an increase on account of interest of £288,500, owing chiefly to the temporary borrowings of which I shall have presently to give an account; on the other hand, there are savings of £33,300 on the Marine charges (as last year's estimates contained some special construction charges); of £12,600 under Territorial Pensions (due to the death of Maharaja Dhulip Singh); of £69,700 under Army charges (a balance between a large saving in Military stores and an increase in non-effective charges); and of £152,100 under Special Defence Works, the expenditure on which is coming to an end.

	£
	+ 288,500
	— 33,300
	— 12,600
	— 69,700
	—152,100
	— 34,300
TOTAL .	—302,000
NET .	— 13,500

"The other differences are small, and involve a net decrease of £34,300.

"The *Exchange* upon our expenditure was in last year's Budget taken at 14⅞*d.*, and came to Rx. 9,935,900. This year we take 14*d.* as our rate, and the Exchange comes to Rx. 11,307,400, so that we have an excess expenditure to provide for of Rx. 1,371,500.

"Now, bringing all these increases of expenditure together, we have, as compared with Budget Expenditure of 1893-94,—

	Rx.
In India—Imperial account—increase	444,000
In England, decrease	—13,500
For Exchange, increase	1,371,500
NET INCREASE .	1,802,000

"I have shown that our estimated revenue of 1894-95 falls short of the Budget expenditure of 1893-94 by Rx. 1,121,100; it therefore falls short of our budgetted expenditure of 1894-95 (so far as we have gone) by Rx. 2,923,100.

"The difference between this and the 3½ crores I gave in my Statement of March 1st is mainly in the reductions we have effected, chiefly under Buildings and Roads, both Military and Civil, in order to meet the shortness of our means.

"SPECIAL MEASURES TO MEET THE DEFICIT.

"This amount then, Rx. 2,923,100, is the deficit which we have to take special measures to meet. The first of these special measures is the re-imposition of Import-duties for which the Council passed a Bill on March 10th. The annual revenue to be obtained by that measure I then stated at Rx. 1,400,000, but the measure was modified in Select Committee by the reduction of the first-proposed duties on iron and steel, and I now put down the revenue at Rx. 1,350,000. I make a deduction of a little over ten per cent. for short collections the first year, and the actual figures passed into the estimates on account of the duties are—

	Rx.
Revenue (after deduction of Refunds) . . .	1,200,000
Establishment	60,000
Net Produce	1,140,000

"The next measure is that we are obliged to suspend the famine grant for the time. This is, as has been often explained, the grant of surplus revenue to the construction of Protective Railways and Irrigation Works. Part of the original Rx. 1,500,000 is already pledged, that is, it is used to meet the loss to Government on its contracts in respect of the Bengal-Nagpur and Indian Midland Railways. That loss, in the coming year, is estimated at Rx. 368,800, and there is also an estimate of Rx. 10,000 for actual famine charges;

so that of the whole grant only Rx. 1,121,200 is capable of being resumed, or rather withheld. We have deemed it expedient to allow Rx. 45,000 on account of certain Irrigation works to remain charged against this head, but the remaining Rx. 1,076,200 will remain unspent in 1894-95. The principal Railway work which is being charged to this head at present is the East Coast Railway. And, as this work is classed also as a Productive work, a considerable grant has been given to it, under the head of Expenditure not charged against Revenue, so that this particular work will not very greatly suffer by the suspension of the grant. But this only means that the effect of the reduction is passed on to other Railway projects.

"One other measure we have been obliged to take, namely, to call on Provincial Governments for contributions to our aid, in other words, to force upon them severe economies, and appropriate the results to the benefit of our own account. The Government of India were most unwilling to have recourse to a measure which practically means the stoppage for the time of all administrative improvement, a measure which they feel must take all the heart out of Provincial Governments, by making them surrender all the fruits of careful administration, to fill the yawning gulf of our sterling payments. But, as the Government of India said in addressing its demand to them, 'the imperious necessity for imposing new taxation obliges the Government of India first to exhaust all available methods of increasing their resources; and this necessity is the only justification they can put forward for so soon making a practical revision of "contracts" made only two years ago, and calling in balances which the Local Governments might legitimately claim as pledged to them for the purpose of administrative improvement.'

"The Government of India wish to acknowledge the readiness with which this demand has been met. The demand was issued on March 1st; it had been complied with by March 12th. Though not very large in amount, except in one case (that of Lower Burma), the demand comes so closely after the adjustment of assigned revenue to assigned expenditure that it means in every case the adoption of active measures to restrict expenditure; and it must be remembered also that it comes after the Local Governments have already had, in the Exchange Compensation allowances, to meet new expenditure over and above their assignments.

"The total amounts obtained from the Local Governments come to Rx. 405,000, their balances being, in nearly every case, reduced by the demand to the minimum prescribed by the Secretary of State.

"By these three measures the deficit in our account is reduced by Rx. 2,621,200, namely:—

	Rx.
New Import-duties, net produce	1,140,000
Suspension of Famine Grant	1,076,200
Contributions from Local Governments	405,000
	2,621,200

from Rx. 2,923,100 to Rx. 301,900, at which figure it stands in the final statements.

"I have already in my statement made in this place on March 10th given a full account of the reasons which have led to the Government accepting this deficit for the year 1894-95. I shall not weary the Council by a repetition of a subject then very elaborately discussed.

"CLOSING OF THE MINTS.

"The central fact of the Financial History of the year was the closing of the Mints on 26th June last. When the last Budget Estimates were presented to this Council, the Government of India were waiting for the Report of the Committee assembled under Lord Herschell's presidency, to whom had been committed the examination of the Currency proposals of the Government of India. The Committee reported under date May 31st. Their recommendation was as follows:—

'It remains for us to state the conclusions at which we have arrived. While conscious of the gravity of the suggestion, we cannot, in view of the serious evils with which the Government of India may at any time be confronted if matters are left as they are, advise Your Lordship to overrule the proposals for the closing of the Mints and the adoption of a gold standard which that Government, with their responsibility and deep interest in the success of the measures suggested, have submitted to you.

'But we consider that the following modifications of these proposals are advisable. The closing of the Mints against the free coinage of silver should be accompanied by an announcement that, though closed to the public, they will be used by Government for the coinage of rupees in exchange for gold at a ratio to be then fixed, say 1*s.* 4*d.* per rupee; and that at the Government treasuries gold will be received in satisfaction of public dues at the same ratio.'

"The Government of India, having considered the Report, telegraphed to the Secretary of State on June 15th, proposing to take immediate action on this decision; the Secretary of State's consent was given on June 20th, and the necessary legislation was carried through on June 26th.

"It was, of course, expected that the value of silver would be immediately affected by this change. It stood at about 38*d.* till June 25th, and then in four

days it fell to 30¼*d.* In July it recovered in the first week to 34*d.*, but settled afterwards at about 32½*d.* In August and September it stood at about 34*d.*, but it fell during October, and its price from then till the middle of January stood at about 32*d.* After this, a renewed fall set in, and in the first week of March the price was quoted at 27*d.*; at that price the metallic value of the rupee is about ten pence farthing.

"Meantime, Silver legislation was taking place in the United States of America. Congress met on August 7th, and a Bill for the repeal of the silver purchase clause of the Law of 1890 was speedily introduced and was passed on August 28th by an unexpected majority. The Bill remained under discussion in the Senate from August 28th till October 30th, when it was passed after a strong opposition. It received the President's signature on November 1st. But it will be seen from my statement of the history of the price of silver that the legislation of the United States was practically a foregone conclusion. Its effect had been discounted, and the final passing of the law produced but little change in the price. The doubtful element in the case was the Indian legislation, and when that legislation became an accomplished fact the price of silver immediately assumed a lower level.

"During the months succeeding the closing of the Mints the price was favourably affected by a strong demand from India. The amounts imported into India during these months were Rx. 2,019,100, Rx. 781,400, Rx. 858,400, Rx. 1,127,400, Rx. 450,400, Rx. 926,600, Rx. 1,658,400, and in February Rx. 1,167,800. Total Rx. 8,989,500.

"We have naturally been very much interested in the question what became in this country of these large imports of silver, but our enquiries have satisfied us that there has really been a very large demand for it for private use and possibly also for hoarding. The divorce between the value of coined and of uncoined silver brought about a state of things utterly unknown in Indian history—in the experience at least of any of the present generation—*viz.*, that uncoined silver could be sold at a profit for considerably less than its weight in coined silver. Silver dealers rushed in to make a profit out of the inability of the ordinary Indian to understand that it was not necessarily a profitable transaction to buy a tola of rupee-silver for fifteen annas. The question was violently agitated of imposing a silver import-duty, so as to prevent a demand for silver that threatened to annihilate, by its own force, that balance of trade which had hitherto required settlement by Council Bills. But it was recognized that this demand for silver would have to be exhausted before our new Currency policy could have a fair chance, and it was determined to leave it to the operation of natural causes. The announcement was made upon January 18th that no duty would be placed on imported silver in aid of the Currency policy.

"A certain amount of this silver, but not, so far as we can find, a very large amount, passed into Native States for use in coinage. It was easy to foresee that, by the closing of our Mints, our rupees would be appreciated with reference to the silver coinage of Native States, especially if measures were not adopted in these States to restrict their coinage in a corresponding measure. We advised the various Durbars to watch the current rate of exchange between their rupees and the Government rupee, and most of them stopped coinage very shortly after we had done it. The Native States are not, however, so favourably situated as we are with reference to the maintenance of an appreciated coinage; for their rupees can, in most cases, be manufactured without elaborate machinery, and so far as we know (though we have not yet full information on the point), the local systems of currency are in very few cases strictly limited, like our own, to coin issued by the State in which it is current. We are, however, continuing to watch the effect of our policy upon the coin of Native States, and to advise them, from time to time, as to the economic effect of measures taken by ourselves or intended by them.

"This excessive import of silver was not the only obstacle which our Currency measures had to meet with. We had been obliged, for reasons for which we were not responsible, to initiate these measures at the most unfavourable time of the year, namely, the beginning of the slack season—that is, the season when our exports are smallest; and the refusal of the Secretary of State to issue his Bills under $15\frac{1}{4}d.$ brought other importers into competition besides the importers of silver, and the balance of trade on the whole actually turned against India for a time. I think it is now recognized that the policy of refusing to issue Bills was a mistaken policy, and that it would have been better to issue Bills moderately so as to meet the demands on the Home Treasury. But the circumstances we had created were altogether new, and both officials and merchants and bankers had all to learn, by actual experience, what new economic forces had been called into existence, and how they affected the question of the appreciation of the rupee. The Secretary of State announced, on January 20th, his abandonment of his attempt to maintain a forced value for his Bills, and since then the course of commerce has given us ground for expecting that we shall be able to maintain the rupee at a value considerably above its metallic value, though not as yet approaching the limit at which there is any chance of its functions as a Currency beginning to be replaced by gold.

"The first considerable issue of Council Bills was on 31st January, when a rate of $14\frac{3}{8}d.$ was obtained. The rate fell, till on the 26th February it stood at $13\frac{1}{2}d.$, but it has since then recovered to about $14d.$

"The question of the future value of silver is so doubtful that I hesitate to express any opinion regarding it. We are told that it has now touched bottom, but we have been told that very often, in past times, and yet it has sunk lower. I do not agree with those who think that if we were to open our Mints we would benefit by enhancing the value of silver. It should be remembered that we can enhance that value only by actually absorbing a considerable share of the world's produce of the metal. But the absorption and coinage of a large amount of silver is an effect that can only follow, and be concomitant with, a fall in the value of the rupee. It is, in fact, economically, the effort of the Currency of the country to adapt itself, by increase in volume, to its decrease in value. In other words, if the opening of our Mints is to enhance the value of silver, it can do so only by a process which involves the depreciation of the value of the rupee; and therefore, as it seems to me, no enhancement of the value of silver, brought about by our opening our Mints, can be of any advantage to us.

"I think that even those who do not believe in the ultimate success of our currency legislation must at all events admit that we have, by its means, escaped an immediate disaster; and those who believe that the only way of issue from the difficulty lies through bimetallism will admit that they are several steps nearer its realization when the rest of the world has ceased to rely on India's consent to bear the main portion of the burden of silver-depreciation.

"SECRETARY OF STATE'S OPERATIONS.

"By the circumstances to which I have alluded the sale of Council Bills was practically in suspense from July 1893 to January, 1894, inclusive. The Secretary of State had estimated to raise £18,700,000 by Bills, of which £1,189,200 was the estimated amount of net payments to Railway Companies, the remainder representing the current requirements of the year. During the first three months of the year he issued Bills for £5,722,799, an unusually large amount, which raised his sterling balance on June 30th to £4,173,925; but from that date till the end of January the amounts received were, in each of the seven months, £51,750, £78,250, £6,672, £4,791, £609,544 (in November), £20,937, £90,658; giving a total of only £862,602.

"During this period, therefore, the Secretary of State had to carry on his transactions by borrowing. The high balance of June 30th carried him over July and August, and besides this balance he had at that time over £400,000 in hand on account of a borrowing and repaying transaction provided for in the Budget Estimates. He had estimated to raise £1,300,000 of 3 per cent. stock to pay off Railway debentures, and, though he raised most of this amount in

July, the repayments were not complete till October. His cash balance, however, was very low in the end of August, namely, £460,903. In September he issued 3½ per cent. debentures for £1,386,000, and borrowed temporarily £500,000; and the net temporary borrowings in subsequent months were—October £1,500,000, November £750,000, December £750,000, January £2,750,000, giving a total of £6,250,000.

£25,000 of this came into October.

"The figures as made up on actual accounts till the end of January, and estimates received from the Secretary of State for the two last months, give us—

	Till January: Accounts.	February and March Accounts and Estimates.	Total for year.
Funds raised by Permanent Debt .	1,386,000	...	1,386,000
Council Bills	6,585,400	2,814,600	9,400,000
Temporary Borrowing (net) . .	6,250,000	—250,000	6,000,000
	14,221,400	2,564,600	16,786,000

"It will be seen therefore that the Estimate of Council Bills now made falls short by £9,300,000 of the Estimate of last March, and that this amount has been made up by permanent debt £1,386,000, temporary debt £6,000,000, a reduction in the cash balance of £1,013,000: total £8,399,000; besides reductions in the payments to Railway Companies and on account of remittances.

"We have *per contra* an enormous accumulation of silver in our Treasury Balances in this country. The £8,399,000 of debt incurred, and cash balance reduced, during the year are represented, at an exchange of 15*d.*, by Rx. 13,438,400 in this country, and our cash balances in India being practically increased by this amount, stand at the close of January, February and March at the unprecedented figures of Rx. 23,802,200, Rx. 25,016,500 and Rx. 26,251,800 (estimated).

"Next year, it will be seen that it is not the present intention of the Secretary of State to draw Bills on our accumulations of silver in order to pay off his temporary debt. He proposes to borrow £8,300,000, of which £6,000,000 will be used to discharge the temporary obligations outstanding at the end of the current year; and the rest is required for his ordinary transactions. The amount for which he proposes to draw, £17,000,000, is only the expenditure of

the year, with the addition of the Capital outlay on account of State Railways, and a portion of his remittance payments. It must, as usual, be understood that these figures are given with reservation of entire liberty to the Secretary of State to vary his borrowings and his drawings as he may find occasion.

"LOANS IN INDIA.

"In the Budget Estimates of 1893-94 we proposed to raise a loan of Rx. 3,000,000. On July 14th, while we were still in ignorance of the approaching failure of Council Bills, a notification was issued calling for tenders for Rx. 3,500,000 at 3½ per cent., and at the same time notice was issued for the discharge of such part of the 4½ per cent. loans of 1878 and 1879 (excluding the 7 shillings per cent. portion) as still remained unconverted, under previous notifications, into four per cents. The loan was raised at an average of Rs. 96-3-2½ per cent., producing Rx. 3,366,130, against a nominal value of Rx. 3,499,100 (as Rx. 900 remained unissued). Of the 4½ per cent. loan we estimate to have paid off Rx. 1,100,000 during the current year, leaving Rx. 241,447 undischarged. The three-and-a-half per cents. are now above par.

"It is hardly necessary to say that with our huge silver balances we have no intention of raising a loan in India during the year for which estimates are now being presented.

"CONCLUSION.

"Such then is our programme for the approaching year—a programme of retrenchment and of vigilance, intended to tide us over what I have called a transition period. The means which we have adopted in our Budget Estimates of nearly balancing our Revenue and Expenditure are means which will hardly be available a second time. It is at some risk that we suspend even for one year the provision of a crore or a crore and a half which we shall certainly require if a famine season comes upon us: we cannot call our financial position safe till we find ourselves again with that crore to the good. The forty lakhs also which we obtain from the Provincial Governments exhausts for the time that source of relief from temporary difficulties. A year hence, as I said a fortnight ago, we shall certainly have to reconsider our position, and we hope by that time to have a much more definite knowledge of the conditions upon which our future financial position rests."

PRISONS BILL.

The Hon'ble SIR ANTONY MACDONNELL moved that the Report of the Select Committee on the Bill to amend the law relating to Prisons be taken into consideration. He said :—

"My Lord, in the remarks which I addressed to the Council, when asking leave to introduce this Bill, I gave a brief account of the reasons which had led the Government to propose legislation on this subject. The Council will perhaps not consider it necessary that I should repeat these reasons now. If I may judge from the undemonstrative reception which has been accorded to the Bill by the public, the reasons have on the whole been considered sufficient. In my introductory remarks I also briefly explained the framework of the Bill. That framework is preserved in the Bill as it is now presented to the Council. It is true that many alterations and additions have been made to the Bill during its passage through Select Committee; but the Bill remains, as to its scheme, practically the same as when it was introduced. The main features of that scheme consisted in the retention in the Act of as many principles of permanent operation as possible, and the relegation to rules of such matters of internal discipline and control as were liable to be influenced by circumstances, and to vary from time to time. This scheme has been challenged from two opposite quarters. From one side it has been said, why put so much into the Act and not leave more to executive discretion? From the other side it is objected, why leave so much to executive discretion and so little to the Act? There is no doubt an element of justice in both views; but the Committee thought that a middle course was preferable to either extreme—a course which aimed at borrowing what was good in the two extremes while avoiding their defects. How far we have succeeded experience alone can shew; but if we have failed it has not been for want of care and deliberation.

"I do not propose to detain the Council by going *seriatim* through all the changes which have been introduced into the Bill. The changes are printed in italics in the edition of the Bill which has been presented to Council, and are apparent at a glance. I may, however, call attention to a few of the more important alterations. It will be in the remembrance of the Council that I laid stress when introducing the Bill on the distinction drawn between a prison and a subsidiary jail. The latter institution is excluded from the operation of the Bill, unless by special order the Local Government brings it within the scope of the measure. This distinction has been preserved; but the definition of 'prison' has been so recast as to cover all the ground necessary in a neater

and more effective manner than in the first draft. For this improvement I am primarily indebted to the Inspector General of Jails, Madras. Instead of endeavouring to describe in the Act what a subsidiary jail is, we now, having defined a 'prison,' leave the Local Governments free to declare what subordinate or minor institutions shall be treated as subsidiary jails and what provisions of the Act and the rules made under it shall apply to them.

"The chapter relating to the duties of prison-officers has been very carefully revised and expanded with a view to the clearer definition of each officer's responsibilities, and an important new provision has been inserted declaring convict-officers to be public servants within the meaning of the Indian Penal Code. This supplies a remedy for an inconvenience which has been felt in practice.

"In Chapter V of the Bill we have inserted a substantive provision that prisoners may be confined either in association or separately. My Lord, our present system of jail administration in India is based on the detention of prisoners in association with each other. There is, of course, classification of prisoners in our jails according to the heinousness or habitual character of their offences—a classification which is more or less complete according to the construction of the jail. But there is always association of the individuals composing the class. Against the association of prisoners while engaged in labour, I have nothing to say; I am in favour of it. But the association of prisoners at other times, and especially at night, is more open to objection. For financial and other reasons the full extension of the system of separate confinement is still a matter of the distant future, but the separation of prisoners at night is more within our means and power. Improvement has already begun in several jails of this and other provinces, by providing cubicles made of wire-netting, by which each prisoner is confined to a separate compartment without any alteration in the general structure of the ward being made necessary. I do trust that this system, or some other equally effectual system, will be as soon as possible introduced into every jail in the country, and that in this way prisoners may be restrained from communication with each other at night time, when control over them must be necessarily lax. The inter-class segregation of the more respectable and least culpable from the others would thus become easy, and the demoralizing influences of jail life would be proportionately reduced.

"The chapters of the Bill, my Lord, which relate to the Food and Clothing of Civil and Under-Trial prisoners, to the Employment of prisoners, their Health

and their Communications with their friends have been carefully revised; and certain suggestions, in connexion therewith, emanating from a Calcutta Association which takes an interest in jail administration have been considered. I desire to call attention to two of these suggestions which seem to me to be typical of the ideas which are prevalent in Native circles on the subject of prison-discipline: One is that the rigour of prison-discipline should be moderated in regard to convicts of respectable social standing; the other is that prisoners sentenced to short terms of rigorous imprisonment should be dealt with more leniently than prisoners sentenced to similar imprisonment for longer periods.

"My Lord, I have no doubt that a feeling does prevail, among a considerable section of educated people in this country, that our system of jail-discipline imposes a specially heavy punishment on members of the better classes of Native society who have the misfortune to transgress the bounds of the law and to find themselves in jail. The section of Native society—I refer especially to Hindu society—to which I am alluding urges that, having regard to the sanctity of caste in the eyes of all orthodox Hindus, and to the difficulties in the way of caste observances which prison-discipline imposes, it is a great punishment for, let me say, a zamindar or a professional man to find himself in jail; it is a greater punishment for him to have to do unaccustomed labour. Why subject him to the further punishment of association with criminals of the baser kind, and to a regimen which, though wholesome of its kind, is entirely different from what he has been accustomed to? This is the view of Native society—at least of a considerable section of it. It is of course easy to marshal reasons against that view; and I shall not trouble the Council by going over hackneyed arguments with which they are no doubt familiar. But I would say this much, that in India members of the respectable classes come much more frequently into collision with the law than in England. This I believe to be largely due not to the innate perversity of the Indian gentleman, but to the circumstances that the vast bulk of the people are connected with the land; that the relations between the land-owning and rent-paying classes have been and still are often strained; and that the land laws have not been as satisfactory as they might have been. But, however that may be, men of the middle classes, especially small landlords, do, I think, get into difficulties with the law more frequently in this country than in England; and, as these difficulties do not involve any particular moral depravity, there is a feeling that the circumstances ought to be allowed for, and that the theoretic ideas of equality in punishment which are rightly enforced in England ought, in such cases, to be modified when

applied to this country. My Lord, I do not speak in this matter for the Select Committee, but for myself. I wish to say that the views I have referred to deserve consideration, and I am glad that, in the Bill as now presented to Council, the Government of India and the Local Governments have the widest executive powers, so that any arrangements which they may desire to introduce shall be covered by the provisions of the Act.

"In regard to the question of punishment for short-term prisoners, I cannot feel the same sympathy as in regard to the segregation of prisoners of the better classes sentenced for misdemeanours. It is an accepted principle that prison-discipline in the early days of rigorous imprisonment should be sharp and deterrent. If the sentence be short and the discipline mild, then the jail becomes, for malefactors, a pleasant retreat in hard times—a *sosur bari*, to use a suggestive Bengali term. But in this, as in all things, there is a 'sweet reasonableness' to be aimed at. In jail matters the best evidence of its attainment is shewn by prisoners leaving the jail better and wiser men. I would encourage jail-officers to make within the law the attainment of that end their guide in apportioning labour and in enforcing discipline.

"When introducing the Bill, my Lord, I anticipated that discussion was most likely to arise in connexion with Chapter XI of the Bill, which deals with prison-offences. I am glad, however, to say that the Chapter has proved non-contentious, and that the arguments in favour of the Bill as drafted were considered adequate. Some improvements have been introduced, but the Chapter remains substantially unaltered. I have great hopes that its provisions will be effectual in checking unnecessary divergencies in prison-discipline, while allowing to Local Governments as much discretion as is needed.

"I do not think, my Lord, that at this stage I need detain the Council any longer, and I shall therefore conclude by saying that the Select Committee appointed to consider this important Bill was an unusually strong one—strong not only in numbers but, if it be permitted to me to say so, also strong in the ability and experience of its members. The Committee have considered the Bill with the greatest care and deliberation, and have been able to make an unanimous report. I am in hopes, my Lord, that the result of the Committee's deliberation will be approved by this Council and by the public, and that the measure on which so much care has been bestowed will in practice be found to be a valuable addition to our statute-book."

The Hon'ble MR. LEE-WARNER said :—"My Lord, I had not intended to make any remarks, but in view of what has fallen from the Hon'ble Mover of the Bill I would beg to observe that in the Bombay Presidency at least the land-owning class of Native gentlemen do not furnish any considerable contingent to the 'Native gentlemen' who unfortunately find themselves in jail. Any attempt, moreover, to treat the inmates of jails differentially as regards jail-discipline with reference only to their status out of jail would seem to me inexpedient. It is the function of the Magistrate to apportion his penalty with due regard to the personal and other circumstances of the case, but beyond that I think no further class differentiation based upon caste or social, and not on moral, grounds, is needed."

The Hon'ble GANGADHAR RAO MADHAV CHITNAVIS said :—" Before the Prisons Bill passes into law, I crave Your Lordship's permission to submit a few remarks on the system of separation of prisoners in our jails according to the nature and gravity of the offence they are guilty of. So much has just been said in favour of this system by the Hon'ble Mover of the Bill that I need only confine my remarks to only a few words. An attempt has been made, my Lord, by the Select Committee to give effect to the principle of separation as far as may be. Section 28 of the Bill now presented lays down that convicted criminal prisoners may be confined either in association or individually or in cells, or partly in one way and partly in the other. Section 60 empowers the Local Government to make rules for the classification of prisons and description and construction of wards, cells and other places of detention, as well as for the classification and separation of prisoners. The carrying out of this principle is a measure which is called for alike in the interests of the prisoners themselves as well as of society. I am well aware that in the present state of the finances of the Empire we cannot reasonably look forward to any radical change or reform in this direction. Yet the recognition of the principle is something and its inclusion in the Act which consolidates the law relating to our prisons is a step gained. That indiscriminate mixing of prisoners guilty of offences of various degrees of moral delinquency both by day and by night, while working or otherwise, is undesirable, can scarcely be questioned.

" In the mufassal we often hear it complained that serious evil results from the practice of allowing prisoners summarily convicted for the first time for light offences to associate while in prison with prisoners who are hardened criminals or who have been convicted of serious offences.

"It often happens that such a system tends to augment that crimina fraternity which it is feared at the present day exists in many of the big towns like any other community in the midst of a well-ordered society. The way in which persons summarily convicted should be treated is a matter deserving of very careful consideration, but the very large number with which we have to deal and the limited accommodation of our prisons makes it especially incumbent upon us to act with the utmost caution and care, lest, as has been said, we 'should mingle with the corrective a sort of moral poison which would rather tend to the greater depravation of the offender than would the punishment to his intimidation or amendment.'

"When it is borne in mind that in the immates of our prisons are to be found such characters as these—'the trivial offender of tender years and yet undepraved morals, the honest and industrious citizen whom a momentary impulse of passion or violence of provocation has betrayed into the commission of an assault, the modest female whom the strength of temptation or the pressure of distress has impelled into a breach of trust or a petty theft, the young and artless who have been the dupes of the more designing, the unhappy culprit guilty of a first offence and that too involving neither violence nor malevolence'—the serious consequences of allowing them to be contaminated and polluted by association with confirmed and hardened criminals in whom the moral sense is altogether dead would be at once apparent. The treatment which these new offenders receive in the jail and the experience they there imbibe constitute for them the crisis of their lives. They may either be restored to society, amended in morals, confirmed in habits of strict discipline and honest industry, shielded in reputation and thankful for such a change in their character, or they may leave the doors of the jail saturated with the mora poison received from their associates, thoroughly depraved in character by companionship with the more profligate of their class, and with their minds filled with deep and lasting resentment against the whole community. These are the men who after they leave the jail form themselves into gangs and prey upon society at large.

"Humanity and policy alike thus call for a reformation of a system which has a tendency to lead to such dire results. The first attempt in the direction of the reforms I have attempted to indicate was made by the Committee o 1838, whose recommendations, as the Hon'ble Mover of the Bill told us the other day in his exhaustive speech, turned towards the congregation in centra

prisons or penitentiaries of all prisoners sentenced to more than one year's imprisonment and in the retention in district jails of prisoners sentenced to shorter terms. For the complete success of such a policy a much larger expenditure of money was necessary than the Government could see its way to incur. Yet it must be admitted that the principle has been kept in view and sustained efforts have been made to give it effect consistently with the funds that could be made available for the purpose. At the same time it goes without saying much yet remains to be done, and I believe that the provisions now embodied in the Bill will enable the Local Governments to arrange for a more rational treatment of first criminals, and as funds permit to carry out in prisons a thorough classification of prisoners according to the nature of their offences, and their separation according to the degrees of their crimes.

"The present Bill is no doubt a great improvement on its predecessor, and although, like everything human, it may be susceptible of improvement, it will have justified its introduction if it had done nothing else than to bring about a uniformity of system in the matter of jail administration in various parts of the Empire—a uniformity without which no prison reform of a general nature is possible or practicable. It will also facilitate, as circumstances and means permit, the introduction of a system of complete classification as based upon the nature of the crime committed, which, while it will secure for the prisoner the elements of punishment, protection and reclamation, will act as a preventive against a prolific generation of crime with all its disastrous consequences to individuals and the community.

"With these words, my Lord, I submit that the Bill be passed."

The Hon'ble SIR GRIFFITH EVANS said that he wished first to draw attention to a small matter on which he thought a verbal amendment would be desirable. He was not moving an amendment, as he had not got one on the paper, and he only desired to make a suggestion for the consideration of the Hon'ble Member in charge of the Bill. Section 26, sub-section (3), provided "No prisoner shall be discharged against his will from prison if labouring under any acute or dangerous distemper," — that was one branch, and then followed the words "nor until, in the opinion of the Medical Officer, such discharge is safe." He apprehended that it was probably intended to provide that a sick prisoner was not to be discharged "unless" in the opinion of the Medical Officer such discharge was safe. It was very difficult to define what was an acute or

dangerous distemper. As it stood it was absolutely illegal to discharge a prisoner suffering under a distemper which was acute or dangerous, and the opinion of the Medical Officer that it was safe to do so would be no protection to the person committing the illegal act. The prisoner so illegally discharged would have a right of action or might recover his expenses for medical attendance after discharge as damages. He only mentioned that because he thought that it would probably carry out the intention to substitute the word "unless" for "nor until". If that was so, probably the Hon'ble Member would be glad to make the change.

In addition to that he wished to make a few remarks about the Bill. This was rather one of those instances which showed how careful one had to be in putting what were really meant to be instructions into the form of positive law. Now, man of these instructions were very good in themselves, but when you came to putting such matters into law you had to remember that you were giving a prisoner the right to file a suit against the Government or the Superintendent of the jail supposing he could show that any damage had resulted to him from the neglect of such statutory obligations and making the rules rigid and impossible to relax without fresh legislation.

How many rights of that kind might be given to prisoners he did not know. He did not suppose that in section 36—in which it was stated that "provision shall be made by the Superintendent for the employment (as long as they so desire) of all criminal prisoners sentenced to simple imprisonment"—any lawsuit would be likely to arise out of that if a Superintendent, on being asked for employment by such a prisoner, replied that he had none to give at the time; he would be breaking the law, but, although he would be breaking the law by saying that, it would be difficult for the prisoner to prove any damage. But, supposing he could show that he suffered damage, of course he would be entitled to compensation, because it would be a breach of public duty. However, he did not suppose that anything of that kind would happen. He was merely pointing out that it was a little risky putting unnecessary things into the shape of law. And, with regard to those things, many of them seemed to him to be matters which could be better provided for by circulars or orders or by Jails Manuals. Here, for instance, was one matter in section 35, sub-section (*2*), which said:—

"The Medical Officer shall from time to time examine the labouring prisoners while they are employed, and shall at least once in every fortnight cause to be recorded upon

the history-ticket of each prisoner employed on labour the weight of such prisoner at the time."

That seemed to be exactly the kind of thing one would expect to find in a Jail Manual; but it did hardly appear that it was the function of this Council to arrange all such small matters as the periodical record of a man's weight, or he might even say the taking of his temperature. He was not going to oppose the Bill on that account, because he did not think that any particular harm would be done by providing for such matters; he only thought that it was unnecessary and an objectionable kind of legislation.

Another instance.—There were elaborate provisions with regard to how prisons were constructed. First of all, there was a wide definition of a "prison," which "means any jail or place used permanently or temporarily under the general or special orders of a Local Government for the detention of prisoners." Then there are certain exceptions, one of them being "any place which has been declared by the Local Government by general or special order, to be a subsidiary jail". Subject to these exceptions section 4 provided that—

"The Local Government shall provide, for the prisoners in the territories under such Government, accommodation in prisons constructed and regulated in such manner as to comply with the requisitions of this Act in respect of the separation of prisoners."

Now then you turn to the requisitions of the Act, and you find them in section 27. One of these requisitions is that—

"in a prison containing female as well as male prisoners the females shall be imprisoned in separate buildings, or separate parts of the same building, in such manner as to prevent their seeing, or conversing or holding any intercourse with, the male prisoners."

Accordingly it would appear that a Lieutenant-Governor, who is the Local Government for this purpose, would be guilty of breaking the law if it were proved that in some out-of-the-way place and owing to faulty construction of a building, although there was segregation, the women were able to see the men at a distance. Putting these things into law seemed to be somewhat unnecessary. In England, where many of these jails, lunatic asylums and so on had to be constructed out of local rates, it was very necessary, when you wanted a particular stamp of jail, that you should put such matters into law, because it was necessary to have a law to enable the Local Government Board to compel the local authority to construct jails of the prescribed sort; but

here, where we have to do with a Local Government, one did not see the use of it. The High Court had no power to issue a mandate against the Lieutenant-Governor. There was nobody except the Governor General in Council that could issue any mandate or order, and therefore it would appear that with regard to all these matters of construction, and so on, if the Government issued a circular stating that they desired that a jail should be constructed in this manner, so far as might be, they would be doing all that was necessary. No legislation was necessary to give the Governor General this power. All he wished to say was that it struck him that there were a good many things in the Bill which might have been provided for in another way, and although it might be said that uniformity was desirable, still that uniformity must be tempered in some cases by local circumstances and necessities, and it was far more difficult to temper it when you had it in the form of an Act like this than when you had it in the form of a circular or resolution.

Then there were the varying circumstances of different parts of the country to be considered. With regard to many things no doubt the Local Governments had been allowed to make rules. What struck one on looking at the Bill was that there were altogether too many matters of detail dealt with in it; at the same time SIR GRIFFITH EVANS did not think that they would do any particular harm, and therefore he did not propose to oppose the Bill; but, having to speak upon it and upon the small amendment referred to, he was obliged to say that it went much too far in taking up matters which did not require legislation to settle them.

His Honour THE LIEUTENANT-GOVERNOR said:—"The opinion of the Local Government of Bengal has been laid before the Supreme Government on the subject of this Bill, and a copy of that opinion has been presented to every Member of the Select Committee and the Council. It is not necessary for me to recapitulate in any detail the views there expressed as to the grounds on which I think that the Bill which we are now discussing is open to objection. My hon'ble friend the mover referred in his speech to one of the principa classes of objection which was taken by me and which has been recapitulated with great force by my hon'ble friend who has just spoken. It was the objection that the Bill has become too much of the nature of a manual of instructions. In this respect it offends against the principles held by a large and important class in India, that the best form of legislating for the country is to pass Acts which shall contain as little substantive law as possible and shall provide that the

execution of the principles laid down shall be carried out by rules to be passed by the Local Government. My hon'ble friend has already to a certain extent answered by anticipation my arguments on this subject by asserting that in this Bill we have only the main principles laid down, and that provision exists for the making of a large body of rules by the Supreme and Local Governments. But I venture to think that he has rather exaggerated the strength of his side in saying that the substantive provisions which this Bill contains are those which relate to important principles and to the grand provisions which it is right that the Supreme Council of India should lay down. I am satisfied that any one who studies this Bill will find in it many details which might with advantage have been omitted. My hon'ble friend who has just spoken has referred to one or two of them, and it would be unnecessary for me, especially as the Council is already aware of the instances which I am able to bring forward in support of my views, to follow up this point in detail. But there is a further expansion of the subject which has been touched on just now in the remarks made by Sir Griffith Evans where he said that whenever you constitute a legal offence you create a statutory right on the part of some one to prosecute the person who commits that offence. The objection which I am inclined to take is exactly in the contrary direction. It is this, that so long as you put into your manual of instructions that your subordinate officers should act in a certain manner, so long you are able swiftly and certainly to punish that man or those men if they transgress these rules; but once make their actions a statutory offence, so that these men must be taken before a Magistrate to have the offence proved judicially against them, and you open an enormous area for technical objections either by the offender or his pleader, and for arguments that the intention of offending cannot be proved, or that some formality has been omitted by the prosecution which has nothing whatever to do with the equity of the case or the spirit of the law.

"On grounds of that kind we see over and over again that transgressors are let off by our Courts, and therefore there is a considerable danger in turning acts which are departmentally punishable into acts which are criminal offences under the law. This is a great mistake which is often made by that class of amiable enthusiasts who are extremely anxious to see certain provisions which they consider right established. They think that so long as an act is departmentally forbidden the offender may escape, and they will not be satisfied until the act is declared to be an offence against the law. It is easy to see the hand of these enthusiasts in the regulations which the Bill contains as to the actions of the Jailor and the Medical Officer and all the jail subordinates. A general opinion has been

expressed by this class of persons that there is a great deal of cruelty in our jails and that a great deal of oppression is carried on by subordinate officials, and they yearn to put a stop to such oppression. My hon'ble friend Sir Antony MacDonnell has casually mentioned a fact which contradicts that impression. He has referred to the popular description of a jail as a '*sosur-bari*,' a father-in-law's house, a place of much comfort and contentment. My Lord, I believe that it is in proverbs of this kind, and not in representations from charitable bodies and bands of unpractical philanthropists, that the true mind of the people is to be found. But in spite of this we have had it urged upon us that there is great cruelty carried on in our jails, and it is mainly to satisfy this impression that these provisions have been laid down. They existed in the Manual already, but the public did not know of them. Once, however, put them into the law and constitute them an offence, and in the opinion of the philanthropists you secure that the object of the Government, which is to stop such oppression on the part of its subordinates, will be carried out. My contention is that you have done exactly the contrary; you have put your prisoners into a position of much greater danger, and made it much more difficult to convict and punish the persons in charge of them than was the case before when these acts were condemned by the Manual and punished departmentally but were not declared to be criminal offences to be taken before the Magistrate, judicially proved, and capable of appeal to a higher Court.

"There are two other points which I would wish to mention very briefly in regard to which I think this Bill has also taken a wrong direction. One is that there is too much of an attempt to secure uniformity. My hon'ble friend Sir Antony MacDonnell mentioned this in his opening speech. He said that he was the greatest possible upholder of the rights of the Local Governments and of the necessity of recognising variations according to varying circumstances, but that this was an exceptional case, in which it was necessary that there should be uniformity. I have not been able to satisfy myself that any such necessity has been proved. There are two special instances which I should wish to bring to notice in which this mistake has been made. There is a provision in section 46, clauses (*6*) and (*7*), under which the handcuffs and fetters to be used in jails must be prescribed as to pattern and weight by the Supreme Government, and I presume it is intended that the weight and pattern must be the same in all jails in every part of India. I cannot but think that in a country like this, where we have to deal with such varied peoples as the stalwart ruffians of the North-West and the weak, puny-limbed people of Eastern Bengal, uniformity in this respect is undesirable; handcuffs may easily be imagined which would be

quite sufficient for a Bengali prisoner, but which a Kabuli prisoner, for instance, might readily break.

"Then you have made provision in the employment section (35) under which a nine hours' labour law is laid down for the whole of India. I have not been able to ascertain the grounds on which this rule has been arrived at or that there is *primâ facie* evidence that a working day of the same number of hours should be prescribed for all the climates of India or for all the different races and for all the varying kinds of labour. I think there are many similar instances of this kind in which the Bill has aimed at uniformity where it would have been wise to leave matters in the hands of the Local Government. I may mention here that my hon'ble friend Dr. Lethbridge told me that the provision about fetters was thought necessary because it had been found that in one or more provinces the fetters were of undue weight, and this made it requisite that the Supreme Government should lay down a uniform pattern suitable for all places. Of course, it is possible that the Supreme Government should be wiser than any one Local Government: it is even conceivable that it should be wiser than all the Local Governments put together; but I venture to submit that the best way of controlling Local Governments in matters of this kind is not by providing passages in the law and making statutory offences in this way, but by a system of inspection, by employing able and capable officers who would go round and see what was actually being done. The Hon'ble Finance Member will remember that when we were colleagues together on the Finance Committee we put that suggestion very strongly before the Government of India. We found as the result of our tour over India that wherever we had gone there was something to learn as well as something to teach, and we held that everybody who goes to inspect other provinces will be able to pick up improved methods of procedure there, for the use of his own province, as well as to suggest improvements from his own experience; that the best way of effecting reform is by sending our officers round, and in that way there would be a general diffusion of knowledge and a check upon any excess or irregularity which a Local Government might be guilty of. I believe, my Lord, that this is the way in which uniformity will be secured better than by provisions of this kind introduced into a law which may not equally suit all parts of India alike.

"I come now to my third point—the restriction of the powers of the Local Government by section 59, which conveys to the Supreme Government alone power to make rules in certain cases. My hon'ble friend referred to section 60, under which Local Governments can make rules, and spoke of it as if it were a large-minded and liberal section which considerably increased the powers of

Local Governments. But I venture to think that it does not contain a single item which the Local Government has not already the power to carry out. There is no liberality and no expansion of the powers of Local Governments here; but in section 59, the clause under which the Governor General in Council has the power to make rules, there is a very considerable restriction of those powers. I will give an instance of this. Three years ago, when I was new to Bengal, one of the first things that struck me in the way of reform for the jails in this province was the desirability of releasing moribund or seemingly moribund prisoners, so as to give them a last chance for life, or, at any rate, the comfort of dying in their own homes. I issued rules to give effect to these views on my own responsibility. I did not refer the question to the Supreme Government. I have no doubt that, if I had so referred it, it would have been received with that consideration with which the Supreme Government always does receive such suggestions; but, at any rate, there would have been correspondence and considerable delay in carrying out my views. Discussion subsequently showed that I had not gone too far in the orders I passed, and the only restriction imposed upon me was that in the mortuary statistics the number of released moribund prisoners should be shown as actual deaths, so that the jails should not get undue credit for a low mortality by getting rid of prisoners before their death. That is an instance of a power which Local Governments did possess, which they ought to possess, and which is now taken from them by clause (7) of section 59 of this Bill. I venture to think that it would be a great calamity if any tendency should arise in this Council to interfere with the powers of the Local Governments, or not to give them credit for sufficient knowledge and for doing what is right under local circumstances.

"I make these remarks not with any intention of embarrassing the Government. I believe on the whole that the Bill is a good one, and the individual points to which I have taken objection are small points; but I think it right to make this respectful protest in case there should be any tendency on the part of the Legislature or of this Council to act in the direction in which it seemed to me that it has been acting in this case. I am anxious to impress—as far as my representation is able to impress—upon the Council the importance of not burdening the Supreme Government with more responsibility than it can bear and with the necessity of possessing more knowledge than it can possibly obtain, of carrying out legislation with a more complete confidence in the Local Governments, and of leaving the law so elastic as to enable them to provide for the widely varying conditions of the different parts and peoples of India."

The Hon'ble SIR ANTONY MACDONNELL said:—"I think I may congratulate the Select Committee upon the reception which on the whole the Council has accorded to the Bill. No doubt, the remarks which have fallen from my friend His Honour the Lieutenant-Governor and from my hon'ble and learned friend Sir Griffith Evans cannot be taken as an approval of the Bill; but I am glad to learn that they do not propose to oppose the passage of the measure through the Council, and that their remarks were more directed towards placing on record the views which they considered right and proper than with the object of preventing the measure from passing. The only possible objection I can have —and I hope my hon'ble friends will not think me ungracious in making it—is as to the tardiness of their remarks. Their remarks have reference to the framework of the Bill, and, being of that character, I respectfully submit that they would have come more appropriately on the introduction of the Bill, or on the motion to refer it to a Select Committee, which corresponds to the first and second reading of Parliamentary procedure. However, I am more than conscious of the considerate treatment which the Bill has received from Hon'ble Members, and I do not wish to take any further objection on that ground.

"My hon'ble friend Mr. Lee-Warner made one remark which I think must have been made under a misapprehension. The observations I offered in regard to the treatment in jail of respectable classes of natives had no reference to the question of judicial punishment, but to the question of segregation, and possibly the regimen on which such prisoners should be placed. On the latter point, however, I would touch very delicately, because it is a question upon which I am not myself prepared to express a strong opinion. In regard to what I have said on the subject of segregation, I think I shall have the sense of the Council with me; but that is a matter of jail administration, which may, with the utmost confidence, be left to the Local Governments.

"In the remarks which fell from the Hon'ble Mr. Chitnavis I generally agree, and I think that under this Bill, when the jail rules are modified, wherever modification is necessary, all his wishes will be met—one of the principal of those being that habitual prisoners should be separated from prisoners who are not habitual. That, indeed, is one of the fundamental principles of the prison system which we desire to carry out in every jail in the country. It may be possible to go a little further in that direction, and that was what I had in view when suggesting that further segregation of misdemeanants from felons (to use English terms) might be possible.

"Coming now to the observations of my hon'ble friend Sir Griffith Evans, I would first refer to his criticism of section 26, sub-section (*3*). The sub-section runs as follows:—

'No prisoner shall be discharged against his will from prison, if labouring under any acute or dangerous distemper, nor until, in the opinion of the Medical Officer, such discharge is safe.'

"That, my Lord, is a reproduction *verbatim* of the existing law. I have much sympathy with Sir Griffith Evans' view that the word 'unless' would have been more appropriate in this section and that it should have been substituted for the words 'nor until'. I was disposed at one time to divide the Council upon that matter, but, inasmuch as the Select Committee were in harmony on most points, I thought it better not to strike a discordant note on this, to 'stand on the old ways' and to allow matters to remain as they were. However, I am prepared to accept an amendment in the direction indicated by my hon'ble and learned friend should he be disposed to propose one and should the Council Rules allow.

The Hon'ble SIR ALEXANDER MILLER remarked :—"I feel bound to say that I shall feel obliged, on behalf of the Select Committee, to oppose that amendment, if proposed."

The Hon'ble SIR ANTONY MACDONNELL continued :—"The next question to which my hon'ble friend Sir Griffith Evans has taken exception is section 36. That section runs :—

'Provision shall be made by the Superintendent for the employment (as long as they so desire) of all criminal prisoners sentenced to simple imprisonment,' &c.

"That is also a reproduction of the spirit of a section of the existing Act, which enables prisoners sentenced to simple imprisonment to engage, if they so wish, on labour. By labouring they are placed upon a more generous scale of diet. My hon'ble and learned friend's criticism, so far as I understand it, is that, as the section is drafted, the Jail Superintendent who does not comply with the request of a prisoner to put him on hard labour lays himself open to a possible action for damages. How far there is practical danger in this my learned friend can perhaps judge better than I can. But if an action were brought—and there is no knowing what litigants may not be advised to do—I should expect the Judge to be guided by the maxims *de minimisnon curat lex.*

"The next reference was made to section 35. The Hon'ble Sir Griffith Evans stated that the entry of the weight of a prisoner upon the history-ticke is a matter which might be better left to rules than put into the law. Tha was one point upon which we made a concession to what I may describe as one of the extreme parties. We had one party who would put everything in the Bill and leave nothing to rules; we had another party who would be anxious to have a Bill drafted of this sort: first section—name of the Act; second section—power to make rules; third and last section—repealing all previous laws. The work of the Select Committee was an endeavour to strike a happy mean. This was one of the concessions which we made, and I do not think that harmony

on other, as I think, more important points was dearly purchased at the expense of such a concession as this.

"In regard to section 4, which states that Local Governments shall provide accommodation for the prisoners in the territories subject to their rule, my hon'ble and learned friend made some observations, but I am not quite certain that I have succeeded in catching the point of my hon'ble friend's objection. By section 4 the Local Government is placed under the obligation of providing certain accommodation to meet the requisitions of the Act, and the requisitions of the Act are stated in section 27. I was unable to see wherein the inconsistency lies in what the gravamen of my hon'ble friend's objection is."

The Hon'ble SIR GRIFFITH EVANS explained that, if in any prison it was possible for a female prisoner to see a male prisoner at any distance, such a state of things was contrary to law, but it was difficult to say that any particular result would take place from the illegality unless an action or prosecution were possible.

The Hon'ble SIR ANTONY MACDONNELL continued:—"My hon'ble friend explains that if it were possible, owing to some defect in a prison building, for a female to see the male prisoners, the Local Government or the Superintendent of the jail would be liable to prosecution or a suit for damages. This, if I may be pardoned for saying so, is one of those excursions into the realms of fancy with which my hon'ble and learned friend occasionally delights his many friends. But, with all respect for my friend's ingenuity, I venture to think that in these circumstances it is not a plaint that might reasonably be expected but a vote of thanks from the female prisoners for arrangements which, though defective, if judged by prison rules, had nevertheless gratified the natural curiousity of the female mind and lightened the tedium of their sojourn in jail.

"I now come to the remarks of my hon'ble friend the Lieutenant-Governor. The most important argument, it seems to me, which he raised was that under the Bill as presented to Council we make a number of statutory offences; that we introduce sections which provide for prosecuting prisoners before the Magistrate; that there would probably be a danger of not getting a conviction, and if a conviction were secured that there would be the further danger of an appeal with all the uncertainties of the law attendant thereon. My Lord, I do not know where in this Bill these dangers and uncertainties are to be found. We do not to propose to prosecute prisoners before the Magistrate for prison-offences except in very extraordinary cases. It is true that we have section 54, but that is intended to apply to the officers of a prison rather than to the prisoners. We have to provide for the maintenance of control over our jail establishments, and therefore we had

to take power either in this Act or to leave it to the general law or to the Penal Code. We thought it right, following the procedure under the Police Act, to provide that offences against discipline should be punished by a special provision of the Act. We have therefore introduced a section (54), and I think that, from the remarks which have fallen from my friend the Lieutenant-Governor, he is labouring under the misapprehension that this section is meant to apply specially to prisoners.

His Honour THE LIEUTENANT-GOVERNOR said :—" I spoke about the subordinate officers of the jail oppressing prisoners, an offence which was formerly punishable departmentally under the Jail Manual but now is to be punished, on conviction before a Magistrate, under section 54 of the Bill.

The Hon'ble SIR ANTONY MACDONNELL continued :—" They may also be punished by executive order. We do not deprive ourselves of the power to make a manual and issue executive orders. We have thought it desirable, with reference to the procedure adopted in the Police Act, to impose certain statutory obligations on our prison-officers and to take power to punish them under this section 54 for neglect of duty, or gross malfeasance.

" In regard to His Honour's criticism on section 46 of the Bill, on the subject of fetters, I wish to explain that, because the Government of India takes power to determine the pattern and weight of handcuffs and other fetters, it does not follow that an uniform pattern or weight shall be prescribed for all the provinces of the country. There is no intention of having one pattern for the weak-limbed men of Eastern Bengal and the same for the muscular Pathans. Power is taken to prescribe the kind of fetter which is found to be suitable to each province or even for each district. All orders on this subject would be framed with a view to the circumstances of the particular provinces concerned, and would be issued on the recommendations of the Local Governments. But so many instances of difficulties connected with the pattern of fetters have come to the notice of the Government of India in its executive capacity that we thought it desirable to introduce this provision.

In conclusion, my Lord, I may explain that for the Bill I am not myself personally responsible although I fully identify myself with each of its provisions. This measure is the result of fifteen years' consideration on the part of the Government of India. Three Commissions have sat upon it, and the Bill was thrown into its present shape before I joined the Council. I am only carrying out the conclusions come to by officers of greater experience and larger knowledge of this particular subject than, perhaps, I possess. At the same time I entirely agree with the principle of the Bill, and as regards its provisions your Excel-

lency will see that there are only two entire sections printed in italics—the italics being the indication of the new matter introduced. This law has, as a matter of fact, been in force since 1870, and we are now only importing into it such matters as practical experience in the various provinces of India has shown to be desirable. I trust that the difficulties which His Honour the Lieutenant-Governor anticipates will not be found to be material, and that he will also find that the powers which the Act gives him under section 60 are fully adequate to save him from any unnecessary interference on the part of the Supreme Government. The object of the Government of India is not to withdraw from the Local Governments powers which they can exercise much more effectually than the Government of India can, but to co-ordinate and bring into line all local effort, and to that end to supplement local knowledge by larger information drawn from other provinces."

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER moved that in section 1, sub-section (*4*), of the Bill as amended, for the words "as those sections heretofore have been, or hereafter may be, amended by any Act passed, and for the time being in force, under the Indian Councils Acts, 1861 and 1892," the words "as amended by subsequent enactments" be substituted. He said:—"This is a purely formal amendment. Section 1, sub-section (*4*), was introduced in to the Bill by the direction of the Select Committee, but it was not settled in Committee and it has been put in in a different form from that which was before the Select Committee. That form—after stating that 'Nothing in this Act shall apply to civil jails in the Presidency of Bombay outside the city of Bombay, and those jails shall continue to be administered under the provisions of sections 9 to 16 (both inclusive) of Bombay Act II of 1874'—goes on—'as those sections heretofore have been, or hereafter may be amended by any Act passed, and for the time being in force, under the Indian Councils Acts, 1861 and 1892.' That is rather an unusual form, and it is open, I think, to two objections—one that it purports to control future legislation, which of course we cannot do. The future Act (if any) will determine for itself whether it is to be applied to these jails or not, and anything that we may say now will have no effect upon that question. Another objection is that the expression 'under the Indian Councils Acts, 1861 and 1892,' would apply rather to rules made directly under the authority of those Acts than to Acts passed by the Council established by those Acts, and I think it would be better to ask the Council simply to substitute for the words I have read the ordinary words which are well understood and used at

least once a week in official documents—I mean the words 'as amended by subequent enactments.' That, I think, will cover the whole ground."

The amendment was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER said:—"I have, with Your Excellency's permission, another small amendment to propose which is not on the notice-paper. As the Bill was drafted the words 'on and after that day' with which section 2, sub-section (*1*), begins, followed immediately after the words the first day of July, 1894,' with which section 1 then ended. Now that another sub-section has been introduced between these sets of words, it has been suggested that, instead of the words 'on and after that day,' section 2 ought to run 'on and after the said first day of July'. It means of course the same thing, but the latter form is more precise."

The amendment was put and agreed to.

The Hon'ble SIR ANTONY MACDONNELL then moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

CODE OF CRIMINAL PROCEDURE, 1882, AMENDMENT BILL.

The Hon'ble SIR ANTONY MACDONNELL also presented the Report of the Select Committee on the Bill to amend the Code of Criminal Procedure, 1882. He said that he would ask the Council to take the Report into consideration on next Thursday.

INDIAN PENAL CODE AND ACT VI OF 1864 AMENDMENT BILL.

The Hon'ble Sir ALEXANDER MILLER moved for leave to introduce a Bill to amend the Indian Penal Code and Act VI of 1864. He said:—"The Bill is a very short one. The first section proposes to alter section 182 of the Code in respect of false information given to public servants. It arises out of a case in which, information having been given by a man to the police that he had been robbed at a certain village, the police went down and made inquiries and gave a great deal of trouble and annoyance to the people. It turned out that the information was absolutely false, but on prosecution of the informant under section 182 the High Court of Calcutta ruled that inasmuch as it was not intended, or could not be shown that it was intended, to injure or annoy any particular persons, the case did not fall within the section in question. The object of the

section is to amend that, and to say that if such information is given the person giving it should be punished whether any particular person was aimed at or not.

"The second section of it is intended to give full effect to what is known as the Vienna Convention in respect of postage, and it provides for making it an offence to make fictitious stamps, which are defined to be stamps purporting to be used for purposes of postage whether by the British or any foreign Government.

"Section 3 is an amendment which is being proposed to section 294 in order to meet a case which I daresay a good many Hon'ble Members have seen—a case of indecency in the Presidency of Madras. I am not perfectly satisfied with the drafting of the section, but that is a mere question of detail and is a small matter, and can easily be settled at a future stage if the Council permit me to introduce the Bill.

"Section 4 is intended to meet a glaring defect in the law which was proved to exist in a somewhat celebrated case—the case of *Shama Churn Sen*—which occurred here in Calcutta shortly before I came out to India, in which a man was charged with defrauding a bank to the extent of three lakhs of rupees. He was acquitted because it could not be shown that the three lakhs had been abstracted upon any one particular occasion or in any particular sums. The section is intended to meet such cases and to make the falsification of books punishable even although no particular sum of money or particular occasion can be shown.

"Section 5 is only for the purpose of determining a point which seems doubtful; it seems that a question has been raised whether, when a higher punishment is authorised in case of the repetition of the same offence, the term 'same offence' will include the minor offences which go to make up the particulars of the offence. It is obvious that if you look at the section it ought to include them, especially where the offence is substantially the same though not identical. The only object of the section is to make this clear."

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER also introduced the Bill.

The Hon'ble SIR ALEXANDER MILLER also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

CODE OF CRIMINAL PROCEDURE, 1882, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER moved for leave to introduce a Bill to amend sections 366 and 371 of the Code of Criminal Procedure, 1882. He said:—"The Bill is introduced into the Council on a representation made to the Government of India by the High Court of the North-Western Provinces. According to their construction of the Code as it stands—and I am by no means prepared to say that the construction is not perfectly right, or that a sentence in a Criminal Court would be legal without that formality—it is absolutely necessary that not only should the judgment be written and signed before it is delivered, but that it should be read at length in open Court to the accused; the result being that very often it would be necessary to read a long legal judgment in English before a number of persons when none of those who were interested either in the prisoner or the case would perhaps understand one word of what was said. The object of the Bill is to remove that necessity, and on the other hand to make it necessary that the judgment shall be at the time explained to the prisoner, or his pleader, in some language which the prisoner, or his pleader, does understand. It is not to be necessary to read the whole judgment, but it is to be necessary to explain the substance of the judgment in an intelligible form. It is also intended to provide for another small difficulty which has been found in practice—that it is very often inconvenient that the judgment should be read by the Judge, who has a great many other matters to occupy his attention. The reading of the judgment is more or less a ministerial act; once settled and signed it can be read and explained as well by some one else as by the Judge whose judgment it is; therefore and it is proposed to give the Judge leave, for any cause which may appear to him sufficient, to delegate the duty of reading the judgment to some other person or Court.

"The second section of the Act is practically consequential on the first, and is only the substitution of other words for words thereby rendered inappropriate."

The Hon'ble MR. WESTLAND said that he would like to know what was meant by the word "judgment". He had always understood that the judgment was the formal order of the Court, and it was the custom always to explain it to the prisoner. Was he to understand that according to the existing law the reasons for the judgment had to be recorded and explained?

The Hon'ble SIR ALEXANDER MILLER said that by the judgment was meant not the sentence itself but the reasons on which the sentence was founded. The judgment of the Court was not the sentence pronounced against

the prisoner, but the statement of the case and the discussion of the evidence on which the Judge justified the decision at which he arrived. As the Code of Criminal Procedure stood at present, it was the duty —a duty, he thought, more honoured in the breach than in the observance—of the Judge to read the judgment at length in every case before pronouncing sentence, and what was intended was to get rid of that necessity.

The Hon'ble MR. WESTLAND said that the custom had always hitherto been to explain the general meaning of the judgment arrived at to the prisoner, and the Judge or other magisterial officer considered himself quite at liberty to record his decision that is, the reasons for the judgment, at greater leisure afterwards.

The Hon'ble SIR ALEXANDER MILLER said that the statement he had just made was not his reading of the law, but that of the High Court. More than one sentence in important cases had been set aside on the ground that the judgment had not been in fact written and signed before the sentence was pronounced. There was no reasonable doubt either as to the meaning of the Code or as to the fact that it was frequently, he might almost say necessarily, disobeyed.

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER also introduced the Bill.

The Hon'ble SIR ALEXANDER MILLER also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

The Council adjourned to Tuesday, the 27th March, 1894.

S. HARVEY JAMES,
Secretary to the Govt. of India,
Legislative Department.

CALCUTTA;
The 30th March, 1894.

Govt. of India, Central Printing Office.—No. 615.—L. D.—30-3-94.—320.—E. H.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Government House on Tuesday, the 27th March, 1894.

PRESENT:

His Excellency the Viceroy and Governor General of India, P.C., LL.D., G.M.S I., G.M.I.E., *presiding*.
His Honour the Lieutenant-Governor of Bengal, K.C.S.I.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, C.B.,R.A.
The Hon'ble J. Westland, C.S.I.
The Hon'ble Sir A. P. MacDonnell, K.C.S.I.
The Hon'ble Dr. Rashbehary Ghose.
The Hon'ble Sir G. H. P. Evans, K.C.I.E.
The Hon'ble Fazulbhai Vishram.
The Hon'ble C. C. Stevens.
The Hon'ble Sir Luchmessur Singh, K.C.I.E., Mahárájá Bahadur Durbhanga.
The Hon'ble Gangadhar Rao Madhav Chitnavis.
The Hon'ble H. F. Clogstoun, C.S.I.
The Hon'ble W. Lee-Warner, C.S.I.
The Hon'ble P. Playfair.
The Hon'ble Mahárájá Partáb Narayan Singh of Ajudhiá.

DISCUSSION OF THE FINANCIAL STATEMENT FOR 1894-95.

The Hon'ble MR. PLAYFAIR said :—"My Lord, I feel compelled to express regret that the Government of India has not been able to afford to the Members of Your Excellency's Council a longer time to consider the very voluminous statements of financial affairs presented to the Council on the 22nd instant by the Hon'ble Member in charge of the finances. Owing to the intervention of Easter-tide there has been practically only one day of business between then and now, in which interval it has been impossible to obtain the deliberate opinion of the mercantile community upon the Budget.

"My Lord, at the present time no one can take into consideration an Indian Budget without dealing with questions relating to the army. The Hon'ble the Finance Member gives the satisfactory assurance that the measures for the defence of the country have been nearly completed, but he does not enlarge upon the remarks on the army made in paragraph 21 of his statement presented to this Council on the 10th instant. There are many who would have been glad if he had met with some degree of fulness the arguments raised in certain quarters for the reduction of military expenditure. I am not, my Lord, inclined to treat the army as a financial reserve, and I hold that the security for peace within, as well as without, our borders must be the first consideration of the State. Having before me the Hon'ble Mr. Westland's observations, I shall await with much interest the remarks of my hon'ble friend the Military Member of Your Excellency's Council on this important subject.

"The accounts of the past year increase the apprehension that income from opium is a diminishing factor in the revenues of India. Unusual influences appear to have been at work during the year. A small crop and restricted sales have been associated with low prices, which is contrary to previous experience. It would be interesting to know how far the Hon'ble Member in charge of the finances attributes this result to the operations of the Currency Act of June last, to which a slight allusion has been made in paragraph 135 of his statement, and how far his low estimate of the value of the crop of the current year is based upon the anticipated effects of that Act. It would be further of interest to know whether the successive failure of crops is attributable to climatic influences, or whether there are grounds for the apprehension that the price now paid to the cultivators of Rs. 5 per seer for opium of standard consistency has become unattractive in being too low.

"The public in India have been waiting with keen expectation for a further expression of the views of the Government of India on the currency question, and especially the effects, financial and economic, of the working of the currency measure introduced on 26th June last; but here again the Hon'ble Member in charge of the finances is reticent. Even more immediate in its bearing upon the present Financial Statement would have been an exposition of the grounds on which in paragraph 133, in the face of market rates which are apparently being still dragged down by the continuing depreciation in the value of silver, he has assumed 1*s.* 2*d.* as the rate of exchange for the Budget of 1894-95.

"A year ago the Finance Member of Your Excellency's Council claimed to be excused for budgeting for a deficit pending the receipt by Government of the report of the Committee headed by the Lord Chancellor of England upon the financial situation. The tone of his remarks indicated that it was not a desirable conclusion to budget for a deficiency. In the estimates for the ensuing year the figures that have now been placed before the Council result in a deficiency of Rx. 302,000, which is arrived at, after additional import-duties have been taken into account, by the absorption of the famine railway expenditure, and after Provincial Governments have been called upon to surrender a portion of their balances. The prospective deficit of 1894-95 follows upon an estimated deficiency of Rx. 1,793,000 in the accounts of 1893-94. This review of the situation is certainly not exhilarating, but I am relieved to find that, in addition to the elastic character of the revenues of India, which it is again a pleasure in connection with this Budget to observe, a closer examination of the expenditure to a certain extent shows that the position of the accounts of the Empire is not so bad as it may on the surface appear to be. Revised estimates for 1893-94 show a deficit of Rx. 1,793,000, being worse than the Budget by Rx. 198,000. I find, however, that the whole of the Home payments during the year have been converted, as customary, into Rx. at the actual exchange rate realized upon the remittances of the year, namely, 1s. 2·6*d.*, resulting in a total charge of Rx. 10,243,100 in the Expenditure and Revenue account, while the Secretary of State's drawings have not amounted to the sterling payments but have fallen short of the estimate of last March by £9,300,000, and therefore the total charge of Rx. 10,243,100 has not been actual expenditure. In other words, the true loss by exchange during the year has been Rx. 5,027,500 on Revenue and Rx. 512,500 on Capital account, making a total of Rx. 5,540,000, and not Rx. 10,634,800 as stated in these accounts. The balance appears to be adjusted under the heading 'Exchange on Remittance Account' as a sub-head under 'Deposits and Advances,' page 62 of the Statement, by the credit entry Rx. 5,094,800. With due submission I think this involves an error in book-keeping. All subordinate headings which properly come under 'Deposit and Advances' close to balance, but Exchange is a sub-heading which closes to Profit and Loss; therefore the adjusting credit entry of Rx. 5,049,800 should be removed from 'Deposits and Advances' and be pushed up to the Profit and Loss, *i.e.*, into the Income and Expenditure portion, of the account. On this being done, it appears to me that the amount of Rx. 5,094,800 would either be deducted from the expenditure or be added to the revenue. The result then would be a visible surplus for the year 1893-94 of Rx. 3,301,800 instead of

a deficit, as set forth, of Rx. 1,793,000. There is, therefore, a surplus and not a deficit on the revised estimates of 1893-94. In the same manner, if the adjusting credit entry Rx. 413,400 under the sub-heading 'Exchange on Remittance Account' of the Budget Estimate of 1894-95 be transferred to its proper place in the Income and Expenditure Account, the result will be a surplus of Rx. 111,400 instead of a deficit as shown of Rx. 302,000. I would submit therefore that I am justified in the remark that the Accounts are not so bad as they at first sight appear. It would afford relief to commerce were the Secretary of State to definitely decide how his arrears are finally to be dealt with. At present they hang over the country like the sword of Damocles.

"I fully recognise the readiness, and the soundness of the principle, with which the Government of India has addressed itself to the requirements of the future to meet the probable deficiency in the accounts of 1894-95, if Home payments have to be met in full at the present, or even a lower, rate of exchange. And I think it is necessary, as well as very desirable, that the Government should have reviewed the Imperial and Provincial expenditure with the object of endeavouring, where possible, to counteract extravagance or stop unnecessary outlay. But when the method of supplementing revenues results in an intrusion upon reserve funds and upon resources upheld for the development and protection of the country, and curtails the scanty means at the disposal of Provincial Governments, I think such means of balancing income and expenditure must be approached with very grave and serious anxiety.

"To meet the financial obligations of the ensuing year it is proposed to absorb Rx. 1,076,200 of the Famine Grant, to take from the Local Governments Rx. 405,000, and to obtain from new import-duties Rx. 1,140,000, making a total of Rx. 2,621,200. With regard to the absorption of the Famine Grant, I understand the original idea in connection with this compelled surplus was that the Government of India should have always a margin of revenue to be instantly applied to the relief of famine as it arose, but if this margin were not so applied during any one year it was not to be brought into general revenues, as it might then be used to the reduction of taxation, but was to be spent in taking precautions against famine by the construction of preventive and protective works, and latterly in addition to the meeting of interest payments on the capital of certain railways declared by the Secretary of State to be protective in their character. In the minute issued on 12th March, 1878, by a predecessor of Your Excellency, Lord Lytton, he stated that the sole justification for the increased taxation placed upon the people of India for the purpose of

insuring the Empire against the calamities of future famine was the pledge that a sum of not less than a million and-a-half sterling shall be annually applied to it, and His Lordship explained that an additional revenue raised by the new taxes was required not for the luxuries but for the necessities of the State, not for general purposes but for the construction of a particular class of public works, and that a pledge had been given by the Government of India not to spend one rupee of the special resources thus created upon works of a different character. And finally Lord Lytton remarked—I use his own words—'to carry out adequately the engagement, thus publicly contracted, immediate, cons istent and persistent adherence to certain lines of conduct on the part of the Central Government is absolutely necessary.'

"My Lord, I do not know that the public revenue can be applied to a better purpose than to that of saving the lives of those who pay it. The assurances of Lord Lytton, speaking with all the great authority of the Viceroy, were received by the whole country as a satisfactory and just settlement of that controversy as to the application of the Famine Insurance Fund, which it was felt on all hands had placed the Government in an invidious and undesirable position towards the people of India. Confirmed by Your Excellency's distinguished predecessor, Lord Lansdowne, successive budgets have shown that the Government has acted up to Lord Lytton's pledges.

"Unless, therefore, the Government of India is now prepared to say—and I presume it is not—that an adequate net-work of subsidiary railways has been completed throughout the Empire, and that the precautions initiated for the protection of the people from the financial, as well as from the material, consequences of famine have been completed, the proposal now made to trespass upon this Famine Fund for purposes other than that for which it was created appears to me to be a regretable deviation from a policy that was wisely adopted and carried out by the Government of India.

"Had the Government of India no alternative, there might be no option but to make use of this reserve fund. But if there is at hand another and more appropriate method of meeting the requirements of the revenue by an equitable and convenient system of taxation to which the community at large would not object, it appears to me that in the interests of the State resort should be had thereto.

"If the absorption of the Famine Fund and the contribution of Rx. 405,000 required from the Local Governments means a reduction in expenditure of the

Public Works Department, I presume it must imply not only the postponement of the construction of railways, roads and canals, but also the throwing out of employment of a large body of servants and labourers, and the imposition of enforced idleness upon the Department, which must be prejudicial alike to the Department and to the best interests of the State. The gravamen is not even confined to this view of the matter. This requisition of Rx. 405,000 follows upon the retrenchment effected two years ago when the renewal of Provincial Contracts brought back to the Government of India the annual sum of Rx. 466,300 from Provincial Funds, a measure made necessary by the financial pressure which was deplored by the Supreme Government as contracting the resources of the Local Governments by an equal amount, curtailing expenditure on the improvement of the internal administration of the several Provinces in India, and restricting the progress of useful Provincial expenditure. Adding to these sums the estimated cost of exchange compensation payable by Provincial Governments, amounting to Rx. 232,100 for 1893-94 and to Rx. 400,400 for 1894-95, we have a cash demand upon the Provincial Governments within three years of no less a sum than Rx. 2,436,400. Of this amount the finances of 1894-95 are called upon to contribute Rx. 1,271,700. Such a sum cannot be withdrawn without injustice to the Local Governments, compelling them to arrest useful and necessary works, and probably crippling their advances to agriculturists. I feel justified in adding that such a policy partakes rather of parsimony than economy and diminishes the available resources of the people, so that the result may restrict the commercial transactions between India and England far more seriously than that erroneously feared as a possible result of the imposition of cotton-duties. If Government determines to pursue this policy, the only hope I can express in the interests of these Provinces is that, following the example set after the termination of hostilities with Afghanistan, the sums now taken from the Local Governments will be restored to them when the finances admit.

"My Lord, stagnation is already upon the country. During the past year sanction has been given to the construction of only 136¾ miles of additional railways, which can be characterised as nothing short of starvation allowance to the wants of this great Empire. This year, it is to be presumed, no additions will be sanctioned and apparently no railway surveys of importance are contemplated. Nothing will be done but that which the Government cannot refrain from doing. Among the important decreases of expenditure set forth under paragraph 122 of the Financial Statement are included 'Construction of Protective Railways Rx. 1,054,300, Construction of Railways Rx. 50,700,

Civil Works Rx. 408,600, making a total of Rx. 1,513,600, and implying a direct and most forcible restriction upon the trading and protective development of the country. On the other hand, I find there are some amongst the mercantile community who, looking at the closing cash balance in India of Rx. 21,684,256 in the Budget for 1894-95, advance the suggestion that from this cash balance the Government has the means to enlarge the expenditure not charged to Revenue for the construction of additional lines of railway by a sum of about Rx. 5,000,000. This indicated surplus represents part of the Secretary of State's borrowings, and therefore Capital, and unless employed for the benefit of the country must lie idle, while incurring interest payable at Home. It has been more than once admitted that with the growth of their railway enterprises the Government of India is becoming more and more deeply concerned in the development and progress of Indian trade. To keep pace with the development of trade and the course of commerce throughout the world, and to admit of rivalry with the great producing countries in the far West, the Government of India should study to keep India in such a position as will enable her to compete successfully. As a contrast to India we may look to the activity of the United States of America, where the length of railways amounts to 170,000 miles, compared with the 18,000 miles in India, and where progress has been made at a rate, not of 136¾ miles a year, but of 5,200 miles per annum during the past five years. The better equipment of rolling stock on these Western lines also permits of the transport of a much larger proportionate quantity of goods or produce, per mile of railroad, than it is possible for our well managed but scantily equipped railways in India to undertake—I refer here to goods trucks and locomotives, and not to passenger cars, a comparison of coaching returns being in favour of the Indian railways.—As these Western countries are competitors with India in the transport of produce to England, and as there is an increasing demand for cheaper carriage throughout the world, India may be left standing if she does not determine to move with the times, of which movement, however, the present Budget gives but faint hopes. Within our own border, and with a population growing at the rate of three millions per annum, there is an increased struggle for existence, as well as a struggle with other countries for trade; and not only does this give cause for serious consideration in the event of failure of crops, but is a reason why the attention of the Government should be devoted to the further development of the resources of the country, the means of promoting that development being under their control. Considering such circumstances I cannot but deplore the fact that the Government should have resolved for any reason whatsoever to divert the money, in

itself not too large an amount, set apart for the construction of railroads to protect the people from the consequences of famine, and by so doing to arrest a series of measures recognised by the people to be indispensable to their welfare. This decision, my Lord, is further to be regretted, when the Government have at hand, as I think they have, and as I endeavoured in this Council on the 10th of this month to place within their power, a measure for strengthening the finances of the country by imposing that duty upon imported cotton goods which, in itself, according to the declaration made by the Hon'ble Finance Member, would almost provide the sum of money the Government now proposes to take from the Famine Insurance Fund and from the Local Governments. Successive Financial Members of Your Excellency's Council have most willingly borne testimony to the elastic and progressive character of the internal finances of India, and the Hon'ble Mr. Westland has repeated his appreciation of India's capabilities, but, as this desirable result has been attained by a liberal and progressive treatment of the country, it cannot be expected to continue when that policy is reversed, as it has been in the present Budget. The outlook of the future is, on this account, depressing."

The Hon'ble GANGADHAR RAO MADHAV CHITNAVIS said :—"My Lord, it seems specially unfortunate that on the occasion of a new and sympathetic Viceroy we should have to encounter a position of financial difficulty which must render almost impossible such measures of administration as he would doubtless wish to promote during his term of office.

"The difficult position of the Hon'ble Finance Minister also cannot but evoke sympathy from all parts of the country. He is like a man who has to swim with his hands and feet tied. With freedom of action, there would be not only the hope but the possibility of success. He is not permitted to adopt the measures which in the opinion of those most competent to judge are necessary in the circumstances, though not perhaps from abstract theory. The finances should be placed in a solvent state, and the administration freed from the embarrassment which is a bar to the successful government of the country. But we are face to face with difficulties which must be met, and the question is whether the means proposed by the Finance Minister are such as to best meet the requirements of the position, or commend themselves to the public on whom the burden of taxation falls. The means proposed are, however, not in the opinion of some sufficient to establish the desired equilibrium between income and expenditure, and are confessedly only of the order of expediency imperfectly indicated, under the plea of the year being a 'transition period.'

"The measures adopted to meet the requirements of the position are of two kinds: one is the diversion of a fund that should not be diverted according to promises made by successive rulers, and the other is the refusal to adopt available and legitimate means to replenish the exchequer, not by questionable temporary expedients, but by imposts of a permanent character not objectionable on any ground as regards the people of this country. One of the measures adopted to meet the financial situation is the resumption of the Famine Fund. This proposal has evoked, I respectfully submit, strong feeling throughout the country, because, besides weakening the assurance against famine, it is a direct violation of promises on the part of the Government, which even the exigencies of the Government at the present time must in the eyes of many fail to justify.

"The object of that fund and the pledged word of the Government have invested it with a saoredness which should save it from violation for a 'period of transition,' inasmuch as even this so-called temporary policy of one year may become the precedent of permanent alienation. The Famine Fund was instituted in 1877, and, to make assurance doubly sure, the Viceroy and the Finance Minister of the period were at pains to meet the objection that such a fund might be diverted as is now proposed.

"Lord Lytton, the Viceroy, is said to have used the following language in connection with this fund :—

'We have explained to the people of this country that the additional revenue raised by new taxes is required not for the luxuries but for the necessities of the State,—not for general purposes, but for the construction of a particular class of public works,—*and we have pledged ourselves not to spend one rupee of the special resources thus created upon works of a different character.*'

(The italics are mine.)

"Lord Lytton, the Viceroy, further declared that it was a calumny for any one to even insinuate that the fund would ever be used for any other purpose than the one declared. How in the face of these pledges, and the moral obligation which they impose on the Government, the fund can be alienated as proposed it is imposible for many who have studied the matter to conceive.

"The second resource of the Hon'ble the Finance Minister is the call upon the Provincial Governments for increased contributions. This the Hon'ble Member says is to force upon them severe economies and appropriate the results to Imperial account. This is a mild way of representing the Imperial

method of crippling the Local Administrations, while it is by no means clear that the possible scope of economy in Imperial expenditure has been realised. On the contrary, there is a widespread belief that there are many items of expenditure unwarrantably high and increased charge rather than reduction intimated (as, for example, in printing and stationery, etc., which charges are said to have grown to an extravagant extent and ought to be reduced). It may seem an easy thing to squeeze the Local Governments, but such a course simply means the weakening of the administration in matters that come more directly in contact with the people, and would be more felt by them than the action of the Imperial Government. And it may drive the Local Administrations either to the imposition of fresh burdens or to neglect of duties and postponement of the performance of other improvements which it is their province to discharge.

"It is the Local Governments who are primarily responsible for the good administration of their respective Provinces, and when they find that the Imperial Government must not only have to be supplied annually with a large fixed allotment, but also that—to use the Hon'ble the Finance Member's words—'all the fruits of careful administration must be surrendered to fill the yawning gulf of our sterling payments,'—when I say the Local Governments find themselves in such an unenviable position, the only alternative left to them is to exhaust the taxable resources of the people immediately under their charge.

"It was, as the Finance Minister says, only two years ago that the present contracts were entered into with the Local Governments, and no measure of apology would, in the opinion of many, justify a revision of those contracts so soon again. Such a revision means—I use the words of the Finance Minister again—the stoppage of all administrative improvements. Education is already starved, at least in my Province, and who knows that further curtailments of educational grants in the country will not be the order of the day? Prison reforms, so long begun as in the year 1838, will still have to be postponed till a future date. The Police is already undermanned, and in some instances even underpaid—I mean of course the lower ranks of it; and any attempts to cut down the number or pay of the constabulary is likely to lead to loss of protection of the people and introduce still greater corruptions in the service. I do not know whether it will be possible to cut down the grants to the Medical Department. Roads and communications require to be looked after and require further developments, and I do not quite see which of the various branches under their control the Local Governments mean to starve. If the Local Governments are to be thus denuded of their

resources, the effect can only be disheartening, even though apparently submitted to with loyal compliance.

"In a Province where settlements are in progress the people have rightly or wrongly to fear a good deal under the force of such a policy. They always entertain the idea that attempts will be made to increase their burdens and thus increase the resources of the State, to enable the Local Governments to furnish their full quota. Their apprehensions may be wrong and ill-founded, but I have ventured to state what the feeling is likely to be under the circumstances. The position of the executive officers who have to work out these settlements and take the whole blame on their heads is a most unenviable one.

"The third resource of the Finance Minister for meeting the deficit is the re-imposition of import-duties. This is a legitimate source of revenue, and is adopted by most countries. I do not propose to enter at length into the subject of the exemption of cotton fabrics, as that has been fully discussed, with the consensus of opinion of all impartial authorities that such exemption is altogether without justification; and, after the intimation of the Secretary of State as to the possibility of reconsideration, I shall, in common with the majority of my fellow-subjects, regret if further consideration be not given and the exemption removed. Such a course would meet the exigencies of the present financial position, and, with other measures that are deemed practicable, might obviate the assumed necessity of alienating the Famine Fund, and even afford relief in other respects.

"The public are by no means assured that economy in the Imperial expenditure has been carried as far as it might be without the least detriment to the efficiency of the service. It is even thought possible—though it is in my opinion a mistake—that increased efficiency might be obtained at less cost. The Famine Fund might be used for its legitimate purposes, with every advantage to the country, from its expenditure, without using it as a makeshift for a 'period of transition,' while there is no prospect of a like sum being yearly available, as there would be in the income from import-duties.

"Another matter in which there seems considerable room for retrenchment is the Home charges. Though a large portion of these may not admit of reduction, as the interest on loans, pensions and fixed charges, there is a considerable percentage of expenditure for stores which might be supplied either locally or on commercial terms much more advantageously than through departmental agency. And there are certain charges made exclusively against India which might more equitably be paid or at least shared by England; nor is it altogether

equitable that the charges for frontier wars should be met so largely from the Indian treasury.

"Again, the question occurs to many as to whether it is clear that the financial policy of the Government of India has been conducted on economic principles. There have been references to the 'unprecedented treasury balance of over twenty-six crores of rupees.' The loan of three millions issued last year has simply had the effect of swelling the balance, with a loss by discount on issue of Rx. 133,000 and the interest that had accrued on the loan since its issue. This is a considerable item to pay for holding money unfructuous in the treasury, and it is only poor compensation to be told that 'the three-and-a-half per cents. are now above par.' The only advantage of the loan seems to have been to show that the credit of the Government of India has not yet collapsed. In this respect, too, something might be said of the needless and unjustifiable purchase of large quantities of silver imported for speculative competition with the bills of the Secretary of State; and also respecting the tardy imposition of the inadequate duty which is now imposed. The obvious object of these importations was to compete as a means of remittance against Council bills, and the effect has been to seriously lower the rate of exchange and to necessitate the increase of taxation—unless use can be made of some portion of the treasury balance to obviate the necessity. Now, why should not some of the needlessly large treasury balance be ulitized instead of appropriating the Famine Fund? Of course, it is needful to hold a sufficient treasury reserve to ensure the convertibility of the paper currency. But it has been asserted again and again that about a third of the present enormous balances would suffice for that purpose; and, even admitting that there must be money kept to meet the drawings of the Secretary of State, there appears ample margin for that, if not also to afford some relief from taxation, instead of seeking means of increasing it. The public would be grateful for a modification of the income-tax, especially in the lower scale of its incidence, which is always the means of oppression which the poor are least able to resist or escape. Of course, after the finances resume their normal state, I would submit, if the whole of that obnoxious impost could be removed, the greater would be the satisfaction to its unfortunate and hard-worked victims. The income-tax, if I may be allowed to say so, is in my individual opinion quite unsuited to the circumstances of this country. In the case of some it is a tax which presses very heavily, as they cannot afford to escape from it; while, in the case of others, it, I make bold to say, is an incentive to dishonesty.

1894.] [*Gangadhar Rao Madhav Chitnavis; the Mahárájá of Ajudhiá.*]

"In connection with the above impost, I shall only be expressing the views of the non-official community in saying that it is likely to be felt a hardship that the product of that impost should be absorbed by the grant of compensation to the services for loss by exchange. They admit that it is a hardship upon the members that their incomes should be diminished by loss in exchange. It must also be admitted that the public servants are rendering good and noble service to the country at a great sacrifice of their health, intelligence, energy and personal comfort, and the people are greatly beholden to them for the great administrative improvements they have been able to confer upon them, and surely the State is also bound to give them some relief; but whether some distinction should not have been made, and a line drawn between the older officers and others, and those who have to make remittances, or not, is a question.

"Looking at the position generally, all the classes referred to are presently in need of the greatest sympath—the Ruler of the country claims our respectful sympathy in the embarrassment of a very difficult position, his Council between the two fires of their consciences and the orders of the Secretary of State, the Provincial Government in their crippled resources blighting their hopes and aspirations, the services with their salaries practically reduced, the commercial and trading communities in a state of uncertainty, the landholding classes always in dread of short and recurring settlements and over-assessments, and the general public the final victims of all these uncertainties, the position is really not a happy one. But our duty is plain to offer to the Government our most loyal support, to give them such advice as our limited experience may suggest in the modification of their measures, and the application of them to the requirements of the country. I have thus respectfully ventured to make certain suggestions which I believe would be beneficial, and which I hope will be taken in the spirit in which they have been submitted, and at the same time would become acceptable to the people. I trust that what has been suggested will commend itself alike to the judgment of your Excellency, and the Council and the Government, here and in England."

The Hon'ble THE MAHÁRÁJÁ OF AJUDHIÁ said:—"My Lord, I approach the subject of the Budget with considerable diffidence. It is full of details with which I am unfamiliar. Fortunately there is no necessity for me to weary Your Excellency and the Council with criticisms of these matters, which I can safely leave to more experienced hands. But there are also connected with the Budget large questions of principle as to which

every one possessing self-respect should be able to sustain the opinion he may himself hold. To me then the Budget is not a mere official statement of the revenue of the Empire; it is the one measure which, recurring year by year, presents to the people of India a standard by which to measure the devotion of the rulers to the interests of the ruled. My Lord, if there is one thing of which Englishmen should be proud, it is the testimony borne almost invariably by a long series of Budgets to their comprehension of India's needs and their earnest wish to satisfy those needs in an adequate manner. If there have been exceptions, I should be inclined to regard the present Budget and those of 1878 and 1882 as most open to animadversion. Before, however, touching on that matter I would crave Your Lordship's indulgence if I dwell briefly on what appear to me to be the chief defects of the Statement before the Council.

"My Lord, we all know how keen and resolute a controversy has raged in this country on the closing of the Mints and on the continued fall in exchange. In relation to these matters and speaking for the people of my own Province, I may say that what is wanted is GUIDANCE. There is a widespread alarm at the way things are drifting. The people are unable to accurately appraise their reserved resources. They wonder what the value of their silver may be, and whether they should retain their gold or convert it into a depreciated substitute. The Budget says as little as possible on these two interesting questions. It does not say enough to establish confidence, or to give the public an assurance which may encourage them to believe in the wisdom of patience.

"Then again, my Lord, in Oudh the people have a direct interest in Opium. I confess I am not encouraged by what the Hon'ble the Finance Minister has said about the Opium Revenue. In fact, I may go further and say I am distinctly discouraged at the prospects of this branch of the Revenue. I admit that there might be an excuse for reticence in the fact that a Royal Commission on Opium has yet to submit its Report; but the excuse, it seems to me, is overridden by the crisis in which the Government finds itself. Is the falling off in the income from Opium due to a permanent defect of the Indian drug, to the encouragement of the growth of the poppy by the Government of China, or to causes within India itself, within the competency of Government to remove? The present Budget, my Lord, is nowhere a budget of hope, but as regards Opium it is almost a budget of despair.

"I notice also that the Provincial Governments have been called upon to contribute from their balances towards the necessities of the Central Government. This is a policy all thinking men will deprecate unless the need is of so urgent

a character as to make it imperative that those balances should be appropriated in order to stave off the infliction of some new burden. In the present case this rule will not apply, and the Provincial balances are drawn upon in order to enable the Government to abstain from placing an import-duty on cotton goods.

" This, my Lord, brings me to the real subject of my remarks upon the Budget. It is in a sense peculiar and unusual, a historical document. It brings forward in a pronounced form a policy enunciated in 1878 and 1882, and which then startled the country and led to loud protests the echoes of which were heard in the discussions which took place in this Council. Then, my Lord, the cry was for Free Trade, but that cry must now be abandoned when it is openly urged in England that the claims of Manchester must be regarded even at the expense of this country. On the 10th March, 1882, my honoured friend Maháráját Sir Jotendro Mohun Tagore spoke of the 'neglect of justice to India in consideration of the interests of Manchester manufacturers.' I am quoting the interpretation put upon my friend's speech by Lord Ripon. His Lordship in meeting that charge declared—'from the earliest period of my public life I have been an earnest and consistent advocate of the fiscal principles of the Free Trade party, and I have been so because I believe these principles are principles of general application calculated to confer the largest benefits upon the great mass of the community of any nation to which they may be applied.' Holding such views Lord Ripon declared himself desirous 'of having a hand in conferring upon the people of India the benefit of the application of principles which I believe to be calculated to conduce to their permanent advantage and prosperity.' Here, my Lord, the policy of Government was declared in emphatic language by its Head and Chief. But Lord Ripon went further than this. He declared the financial interest of India, that which Sir John Strachey, quoted recently by my hon'ble friend Mr. Playfair, called 'the financial independence of India,' to be an object of which Government should never lose sight. He said:—

'And I can say that if I did not entertain that opinion, if I thought that the course which the Government is about to take with respect to these Customs-duties was a course that would benefit England at the expense of India, I would not have been induced by any consideration to be a party to such a proceeding. I desire, so long as I may hold the position I have now the honour to fill, to govern India in the interests of India and for the benefit of her people, and I would not consent to be a party to any measures which I did not honestly believe would conduce to that great end.'

" My Lord, it is conceivable that a crisis may arise when India may be called upon to undertake sacrifices for the benefit not of herself alone but of the

Empire at large of which she is proud to form so important a part. Should such a crisis ever compel the Government to appeal for such a reason to the people, the appeal would be loyally and cheerfully responded to. No such necessity has, however, arisen. The fall in the value of the Rupee has caused serious embarrassment to this country. There is an urgent demand for an increase to the revenue, a demand so urgent as to compel the Government to reverse the Free Trade policy so strongly recommended to the country twelve years ago by Lord Ripon. And what is the result? India, which because of that Free Trade policy abolished her import-duties, has had to submit to that most distasteful of all fiscal measures—direct taxation, now finds herself compelled to look to import-duties as a permanent relief to her distresses. The principle of Free Trade is abandoned, and, rather than admit this all round, the Famine Insurance Fund controversy is reopened, railways are suspended, Provincial balances are drawn upon, and worst of all the special advocacy of Indian interests no longer forms a feature of the discussions on the Budget. An Hon'ble Member on a recent occasion assured Your Lordship that the masses of the people never heard of the debates in this Council. That is true in part, but only in part. The masses may not follow debates, the eloquence of which they would not appreciate, but they do follow the measures of the Government. These measures are discussed far and wide. The principles on which they are based are, it may be, above the heads of the masses, but for all that they are talked of much more frequently than might seem possible in every market-place and gathering in the country. It is this fact which distresses me most in regard to the defect I have pointed out in the Budget. It is this fact which forces me and all who comprehend the real influence of English rule to deplore the exemption granted to cotton goods. There is a real public opinion in India, and the result on opinion of this most mistaken exemption will be at once regrettable and disastrous. The effect upon the power and influence of the Government may be slow in making itself felt, but will be beyond question mischievous and deplorable, because, to quote from a speech in this Council delivered by Lord Ripon on the 7th of January, 1884—'that power and that influence rest upon the conviction of our good faith more than upon any other foundation, aye more than upon the valour of our soldiers and the reputation of our armies.'

"At a time when, in connection with this question of import-duties on cotton goods, the Press in England has indulged in speculations as to the "SPELL" which binds this noble dependency to the United Kingdom, I may be pardoned if I make another reference to the speech of that great statesman, Lord Ripon, from which

I have just quoted. Replying to the question of the Hon'ble Mr. Thomas—'Was there ever a nation which retained her supremacy by the righteousness of her laws?'—His Excellency said:

'My study of history has led me to the conclusion that it is not by the force of her arms or the might of her soldiery that a great empire is permanently maintained, but it is by the righteousness of her laws, and by her respect for the principles of justice.'

"In these words is described more eloquently than anywhere else the secret of the SPELL of British rule in India. My Lord, I feel that I may be forgiven when I express the hope that the essential character of that spell may be maintained; when I give utterance to the wishes of my countrymen that the end of the crisis which has come so suddenly upon India may be to convince all men throughout the length and breadth of the land that Lord Ripon's words are still true, and still faithfully depict the policy and the hope, the object and the endeavour, of the Government of India."

The Hon'ble FAZULBHAI VISHRAM said:—"Your Excellency, I do not propose to detain the Council long with the few remarks which I have to offer on the Financial Statement of the ensuing year. It is a sober exposition of solid facts and figures, which, however, I am afraid, will not remove from the minds of a critical observant public the impression that the Government has no definite policy for the solution of the difficulties in which the country has for some time been involved owing entirely to the depreciation of its currency. No doubt the frank confession of helplessness, which seems to be the keynote of the Statement, disarms criticism. We realize and appreciate the ability with which the financial forecast for 1894-95 has been made. We recognise that the programme sketched is 'a programme of retrenchment and vigilance intended to take the Government over a transition period.' And yet the country will be entitled to ask, how long is this hand-to-mouth policy to continue? I shall not venture to travel over the same ground as in the course of the debate on the Tariff Bill, but it seems to me that the apprehensions which we entertained regarding the course of events have been fully justified by the Statement. The country at large asked the Government to include imported cotton goods in the Tariff Bill with the object of assisting it in its difficulties in the easiest manner possible under the circumstances. It is a peculiar fact that, whilst additional taxation is always objectionable to the people, in this instance there was a consensus of opinion that Government might fairly and wisely raise sufficient revenue to meet at least half its deficit by imposing a small duty, such

as has been imposed upon other commodities, on cotton goods imported into the country. The voice of the people, who were and are willing to bear the burden, was overruled on grounds the speciousness and hollowness of which are now sufficiently exposed by the recent enunciations, journalistic and otherwise, in England. I endeavoured to show in my remarks on the Tariff Bill that the idea of protection involved in the imposition of a small duty on fine yarns and fine cotton goods imported from England is chimerical, and I adhere to that opinion. What is the result of adopting that course? My hon'ble friend the Finance Minister has been obliged to include in the Budget the Famine Insurance Fund for meeting the deficit; he is compelled also to starve the Local Administrations of various funds applicable for the better carrying on of the administration. Can anything be more disastrous than the absorption of the Famine Fund for the purpose of meeting a deficit? It might as well be thrown into the sea so far as any good to the country is concerned. I may venture, my Lord, to say that the country is still in the hope that your Lordship's Government will be able to induce Her Majesty's Secretary of State to reconsider the position and sanction the duty on imported cotton goods. As regards the demand for a countervailing excise-duty upon cotton goods manufactured in India, had there been any parity between the goods upon which we suggest a duty should be imposed and the goods manufactured in India, and had even the levying of such an excise-duty been practicable, the suggestion would be unworthy of the greatest nation of the world towards its almost bankrupt dependency. In order, however, to do away with a wrong to the country which results in the appropriation of the Famine Grant and other items ordinarily applicable for the improvement of provincial administration, I, for one, speaking as a millowner, would be willing to support the levying of an excise-duty on cotton goods manufactured in India, assuming, of course, that such an impost can be practically levied without injustice and serious trouble. Whatever view may be entertained in this matter, I submit that no effort should be spared in obtaining the sanction for the re-imposition of the cotton-duties, for, in my opinion, the revenue derived from this source will not be the only benefit to the country. It would, as I ventured to indicate before, help to a certain extent in creating that desirable balance of trade in our favour on which so many people build their hopes of seeing a solution of the financial difficulties of India. That this hope is not altogether unfounded must be apparent to every one who has closely observed the circumstances that transpired before and after the introduction of the Tariff Bill. It requires little knowledge of economics to see that with our enormous gold liabilities to England,

and a large import trade with gold-using countries, an export trade, the value of which must necessarily be appraised in silver, must assume vast dimensions in order to create a balance of trade in our favour so as to compensate for the loss caused by the depreciation in the value of our currency without some such extraneous assistance as has been suggested. In my humble judgment no amount of retrenchment or vigilance exercised in the present or in the future can possibly cope with the gravity of our situation, unless and until an attempt is made to deal with it radically. Speaking with all respect, I beg to say that the currency legislation of last year has hardly received a fair trial. The enormous introduction of silver, which mainly contributed to annihilate the anticipations of Government regarding an immediate, stable exchange, took place under circumstances which leave little room for doubt that the silver imports were made by speculators, Native and European, not to meet a *bonâ fide* demand amongst the masses of the country, as is commonly supposed, but merely for purposes of speculation. And this brings me to the suggestion which has been made to Government from another quarter, namely, of making silver a Government monopoly. So far as I can see, there seems to be no objection, economic or otherwise, to adopting that course.

"As regards immediate remedial measures, I understand that on the Revenue side the mint receipts, amounting to about fourteen lakhs of rupees, are considered to be lost. Is there any objection to the Government working the mints on their own account? Considering the low value of silver and the great margin between the respective prices of bullion and the rupee, would not Government by manufacturing rupees for itself make sufficient profit to meet at least a substantial portion of the present deficit? It seems to me to be a legitimate source of revenue and one capable of materially easing our finances. I would venture to ask the Hon'ble Mr. Westland for an elucidation of this point. I understand that Government do not allow the free coinage of the copper currency, but they manufacture the coin on their own account, which leaves them a substantial profit. I have seen it stated that the metal in a rupee worth of pice is valued at about six annas only! In the same manner it is said that the margin of profit between the respective values of bullion and the rupee is about 25 per cent. exclusive of all charges and the duty. In the year 1892-93 about ten crores of rupees were coined in the Bombay mint alone, and, if Government were to do the same now, the operation should bring them an enormous profit.

"I further see that the Treasury balances are given at 26 crores and at over 21 crores at the end of the ensuing official year. Of course, nobody expects the Government to manipulate this large sum as a private individual, but again I see no reason why this great balance should not be invested either in its own paper at 4 per cent., which would relieve the finances to the extent of 84 lakhs per annum, or why even half of it should not be invested in English or other stock so as to yield a substantial income in sterling to meet sterling liabilities. Such a course would appear to be all the more desirable when the Secretary of State will be issuing a sterling loan of about 8 millions to replenish his treasury, and heavy demands for interest thereon must be met. In fact, there must already have been a large charge under the head of interest on the temporary borrowings in London this year, and it cannot be less than a quarter of a million sterling in the ensuing one, which can be easily covered by a judicious investment of funds on this side. Another opening for the large balances would be the construction, or rather continuing the construction, therefrom of what are called the 'trade railways' already sanctioned. They are proved to be productive constructive works and besides help to keep the balance of exports in favour of India, which is besides the only chance of success for our currency scheme. Last year I had the honour to suggest that the new loan for 300 lakhs might be issued at 3½ per cent. instead of 4, and it happened to be so issued. It was placed on the market at a discount, but its present rate is over par, and the annual saving to Government is 1½ lakhs in point of interest. They can secure a further saving by converting a portion of their 4 per cent. loan to 3½ per cent. by giving the usual notice.

"I will not dwell upon the Home charges and the Military expenditure, especially after what has already been said about them by the other speakers; they are more or less beyond the control of this Government; but I must, before concluding, say that I entirely sympathise with those that object to a constant increase under these heads, and urge a reduction thereof in the present crippled state of our finances."

The Hon'ble SIR GRIFFITH EVANS said:—"I do not think that, since I first sat in this Council in December, 1877, I have listened to a Budget which gives rise to graver reflections than the present one, although there are points about it which bring some hope for the future. The look-out is uncertain and unsatisfactory.

"The leading features of the situation are that, although the number of rupees composing the revenues of India are increasing steadily, yet their ex-

change value in respect of gold has been falling, out of all proportion to the increase in their number, and that there are symptoms that their purchasing power in this country is falling also.

"Next, we find that the expenditure is steadily increasing, and I fear to a great extent necessarily so. We cannot hope that, although there may be savings made here and there by a vigilant Finance Member and Members of the various Departments, there will not be an increase constantly going on which will out-balance these savings. Take, first of all, the general administration of the country. I do not think that it can be hoped that in a country which is so constantly improving as this is, and in regard to which we are constantly aiming at a higher standard, one can expect to have a diminution in what we might call charges for general administration which would include Police, Law, Justice and many other similar matters.

"Next, take charges connected with development of the country. In this country, where the population is increasing by leaps and bounds, at the rate of about three millions a year under the security of life and property given by the rule of England, it is evident that it becomes absolutely necessary to do what can be done in order to meet this constantly and largely increasing population. One of the things that is specially to be done is to attend to Irrigation, and thus increase the fertile area, increase production and diminish the chances of failure of crops.

"Next in the matter of development come Railways and Roads, to cheapen transport, to encourage exports and to enable the country to bring out her produce into the markets of the world and generally to stimulate trade. Unless this is done, it is quite plain that the population must become in excess of the powers of the soil, and must starve and dwindle, unless they emigrate. For food determines population. Therefore these charges are absolutely necessary, and we cannot expect them to decrease whatever economies he may make in detail.

"Then comes the other great matter in the case of an Empire like this, and that is its defence. If one looks at the extent of this enormous Empire and sees how much of its Frontier is bordered by tribes and nations quite as fierce and martial as any of those barbarians who beset the Roman Empire in its latter days, when one looks at that and sees in addition the close approach of two first class European Empires, when one reflects upon what human nature is and that one never knew an Empire when it saw a chance of overthrowing another not to take advantage of that chance, when one looks at

the lessons of history, one feels bound to recognize the necessity for maintaining a large efficient army. The more so that this immense Empire is full of titanic forces of disruption barely kept in a state of unstable equilibrium by a foreign element. Looking at this Budget one sees that, so long as the army is kept at its present strength, and unless some reduction is possible,—regarding which I shall have something to say hereafter,—it seems pretty plain that one cannot expect very much of a decrease in the expenditure. The same thing may be said here as I have said in regard to the civil administration. A vigilant Financial Member, co-operating with the Military Member, may knock off a lakh here and a lakh there, but with the increased expenses of the munitions of war and arms of precision, with the increase of prices and the rise of wages, one does not see that there is likely to be any great diminution of the expenses. On the contrary, one sees that it is very much more likely that some day or another the question may arise even as regards the increase of the pay of the Native soldier and to the necessity for more British officers for each Native regiment. Eight is a small number to begin a campaign with.

"From the very nature of our Empire we have to make large gold payments to England, because England is a gold-using country and we get our European army from England—which army is absolutely necessary for the maintenance of our possession of this country; so much so that if it were taken away the Empire would disappear to-morrow; it follows that there must be a very heavy gold charge with regard to pensions and pay, and also with regard to the necessary materials of war and railways, and so on, which must be got from gold-using countries, because they cannot be obtained in India. Under these circumstances there is this crushing fall in exchange which upsets all the financial schemes devised, and makes it difficult for us to bear the burden of increased expenses of administration and defence which otherwise we might easily afford. It is in respect of the 16 or 17 millions a year that we have to pay in gold that the pressure is so crushing. The result has been, as shown in the Budget Statement, fresh taxation to meet a deficit of nearly Rx. 3,000,000, reduced, by desperate attempts at retrenchment, to an estimated deficit at the end, of Rx. 301,000. We have a deficit of Rx. 1,792,000 in the past year (1893-94) and Rx. 833,000 for 1892-93, and now Rx. 2,923,000 in the present year.

"Under these circumstances it is quite evident that fresh taxation of some sort must be resorted to, for, notwithstanding that it is said to be a period of

transition, yet the Financial Member said in his Statement that it is a position, whether transient or not, which compels us to look for money and provide for it by some permanent source of revenue.

"Now, before I pass on to consider what that ought to be, I wish to say a word in regard to Exchange Compensation. This is really raising the rupee salaries to partially meet the fall in exchange. This has been very bitterly attacked outside, but the observations made about it in the Council here so far have been comparatively mild. That is to say, it has been protested against in a certain way, with a feeling that something ought to be done if possible—if we could afford it. I will not go into the details of that measure, but I would put it simply on the broad ground that it is absolutely necessary if there is to be an English Empire maintained here. We must have a British army, and that army must be paid, and that involves adequate payments for their pay and pensions. The next thing is that you must have a certain number of Englishmen here to administer the Empire. I am not speaking of how many there ought to be or how few there ought to be, but it is quite necessary that they should be here, and if you want to have men of the right sort it is also certain that you must give them adequate pay, and that, when they have laboured here for a number of years, they should feel that they have something to fall back upon in their own country, and the charges connected with all these services are absolutely necessary for the maintenance of the Empire. It is also necessary to have a certain number of Europeans in other branches of the administration—the railways, and so on; and if you have these men out they too must be adequately paid.

"Now, what has happened? I take the Civil Service. I will not go into too much detail as regards all the rest, but I take the Civil Service as an example. Years ago the Civil Service was placed upon a certain basis of payment in the rupee. Why was this done? Was it on account of some great liberality or of some desire to place these men in a position of unnecessary opulence? Not at all. It was because they came out here to administer a great Empire under many hardships and difficulties. They had to educate their children, they had to send their wives home when ill, they had to go home themselves when ill to recruit, and it was quite evident that you could not expect the kind of service that you wanted unless they were reasonably paid. The reform on the old system of Writers on small salaries with free quarters was intended to place the service in a position in which the State could expect devotion and sacrifice

from them considering that they were, on the other hand, well remunerated if they happened to live through their term. Now, what happened? The exchange fell and fell until 40 per cent. went off the income of these people, and the evidence that was available before the orders were issued with regard to Exchange Compensation showed most clearly the distress and the utter change in the position of these men that had taken place. It showed that a feeling of discontent was growing up, and it indicated a state of things which really meant the demoralisation of the service. We all know what the record of the Civil Service has been, how the Empire has been governed, and what a wonderful spectacle it is that it should have been governed in the way it has been. One knows that, when the history of the Civil Service comes to be written, it will command the admiration of posterity. Faults they have had in plenty, but the service has as a body shown earnestness and capacity and devotion to their work to a rare degree, and they have been allowed by their worst enemies to be free from suspicion of corruption. There were certain fundamental matters that had to be considered. As far back as the times of the old Egyptians and the period of the Pharaohs it was laid down as an axiom that a Judge must be well paid and put out of the reach of all temptation of being bribed by the litigants. The same is true of the Rulers of Provinces. To get Englishmen to govern districts in the East (which elsewhere would be Provinces or Kingdoms) with incomes so reduced that they could not provide for their families in England and live in such reasonable comfort and freedom from petty money worries as is essential for their position and health is mere folly. But we stood in this position, that the service was becoming impatient and discontented, and it became plain that it was time to act and absolutely necessary that something should be done. I speak in this way on this subject, and you may ask what have I got to do with it? I have nothing to do with it. Since I came to the country I have not drawn one single rupee of Government pay, nor have I any relations in the Civil Service. I have no reason for expressing anything but my own personal opinion, and I am very free to do so. I have seen this change going on for twenty-five years now, and I say that the attempt to alleviate the pressure was made not one day too soon. It is said, but why make it in a time of such financial difficulty? It is because the very reasons that brought about the financial pressure on the Government also caused this dire financial pressure on the service. When we came to look into the matter there were two things to consider—they were the European army and the European service, and they had to be paid for. That is the fact of the matter, and if the payment is heavy it is a necessary payment, and it is well worth making it. If

you were to put it to the people of this country now—if you put it 'Would you like to have the European army withdrawn and be free of the expense?' there is not one single sane Native with anything to lose who would not lift up his hands in absolute horror at such a suggestion; they would be as horrified as the people of ancient Gaul (the modern France) were when the Roman army was withdrawn and the German barbarians flocked to the loot of that flourishing Province—their cry would be bitter and hopeless. Under these circumstances, while one would not wish to do anything in the way of expense that could avoided, we should be failing altogether in our duty if we did not incur the necessary expense for the maintenance of these two services in a state of efficiency. I have spoken thus as regards the Exchange Compensation in order to explain why, as far as I am personally concerned, I agree in the necessity for that expenditure.

"I will not go over again the ground covered by the debate on the Tariff Bill.

"I will take it as clear that the general import-duties exempting cotton are inequitable and capricious in action as well as inadequate in result, and that, whether the sum required is one or two millions, it should be raised by equitable and not by inequitable taxation.

"What I propose to do now is to examine the Budget as to see how India stands and what is her financial position. What I wish to dwell upon is this: the Secretary of State is reported to have announced that in his view there was no sufficient financial pressure on India as yet to justify him in reconsidering the subject of the cotton-duties. That was before the last debate in Council, but I think, when the Secretary of State sees this Budget and marks what is done in India, he ought to be satisfied that the 'pressure' is sufficient.

"Every one has observed that the estimated deficit on the 2nd March was about 3½ millions, whereas the deficit appearing on the Budget of the 27th March is Rx. 2,923,100. The difference is principally due to the reduction of Rx. 370,700 for roads and buildings, as stated in paragraph 24 of the Statement. There are other stringent retrenchments of smaller amounts.

"But turning to paragraph 19 we find that the Rx. 370,700 is made up of Rx. 194,200 cut from Military works and Rx. 176,500 from Imperial works on the civil side—all forced upon the Government by financial pressure. The total is Rx. 370,700, cut out Public works not because they are not necessary, but simply because the money is not forthcoming.

"Add this to the present deficit Rx. 2,923,100 and we get roughly Rx. 3,3000.00 as the amount at which the deficit would have stood had not these ruthless cuttings been made. It is not suggested that these works are not necessary or that this expenditure can be permanently avoided—paragraph 19 is clear as to that and the same thing is shewn by paragraphs 127, 128 and 129 These are the measures adopted to bring the deficit down to Rx. 2,923,100. I ask your attention to the meaning of this. It means a total arrest of development.

"As to Rx. 194,200. What does this mean? The barracks required in Upper Burma will not be built, the sanitary measures required for the army in India will not be carried out, and worst of all the proposed improved arrangements for water-supply for the troops all over India must stand over—this means preventible sickness and preventible deaths among our troops. The dreadful scourge of enteric fever is to run its course unchecked.

"All this to enable cotton goods to be exempted from the tax !! "

"Yet all this is not 'sufficient pressure' to induce the Secretary of State to reconsider the matter !

"As to the cutting out of Rx. 176,500, it seems *inter alia* the stoppage of new post offices, telegraph offices and other useful works.

"But it does not stop here. When the general import-duties minus the cotton-duties have been put on, yielding Rx. 1,140,000, there is still left a deficit of Rx. 1,783,100. To meet this the Famine surplus, Rx. 1,076,200, is diverted from its special purpose and used as ordinary revenue.

"I am not one of those who have any superstitions about the Famine surplus, as if it were 'taboo' protected by oaths and the wrath of the Gods from sacrilege. But it represents a definite line of policy which is shortly this. As famines are recurrent in India sound finance requires that we should make provision for them as certainly as a owner of house-property has to set aside a margin from his rents for repairs.

"This policy was announced by Lord Northbrook in 1874, put into operation by Sir John Strachey under Lord Lytton in 1877. The rule finally laid down was that this special surplus should be budgetted for and spent either in protective works so as to avoid borrowing or reduction of debt. More than once this special surplus has been suspended from necessity, but always re-

established as soon as possible, and it is to be remembered that it was originally raised by special taxation for the purpose.

"The diversion of this special surplus to ordinary revenue is only permissible during severe temporary pressure. It must be restored before our finances are in a sound state.

"This goes into the yawning chasm of the deficit and the Secretary of State still says 'insufficient pressure.' There still remains Rx. 706,900 of deficit; what next will the Financial Member throw in? Rx. 405,000 taken as it were by force from the Local Governments—a widow's mite, but all that they had. The piteous story is told in paragraphs 27 and 28; the details are in paragraph 97—the administration crippled and the heart taken out of the Local Governments.

"Is this not pressure enough? In paragraph 128 we are told these sums are obtained from the Local Governments mainly by cutting down civil works which were badly needed. How severe the retrenchment has been may be imagined from the case of Burma. It is said one of the items there is a lakh of rupees or thereabouts for a light-ship. Danger to shipping, yet insufficient pressure! It seems a pity that the Secretary of State cannot be sent for a cruise off that coast on a dark night.

"See what has been done. Rx. 370,700 cut out of the Imperial Budget for Civil and Military public works and Rx. 405,000 from Provincial works; total from necessary public works Rx. 775,000, at the expense of the development of the country and the health of the army. Substitute the cotton-duties for these retrenchments and even then you would have had to take the Famine surplus to make up the Rx.3,300,000, and the Budget would have roughly stood thus—deficit Rx. 3,300,000 as against Rx. 3,316,000 (from cotton-duties taking them at the low figure of Rx. 1,100,000, the present duties and the famine surplus, *i.e.*, Rx. 1,100,000 + 1,140,000 + 1,076,200)=surplus Rx. 16,000. Even this would be a temporary arrangement as the Famine surplus must be restored as soon as possible. Railways and irrigation would have lost for a time the Rx. 1,076,000 of the Famine surplus. It is said this is a temporary situation or may turn out to be so, but the Financial Member has told us that it is a situation which imperatively calls for a new source of revenue of a permanent character and that general import-duties have been deliberately chosen for that purpose.

"If so, justice and expediency alike demand that, with or without a countervailing excise, cotton goods should be included. The Financial Member evi-

dently thinks it should be without excise-duty and so do most people in India, but the enemy is strong and it may be well to make terms with him while he is yet on the way.

"My Lord, on reading the account of th e Lancashire deputation one feels that the position of the Secretary of State was not a pleasant one. After a few stock phrases about disinterested concern for the poor Indian, they showed their teeth and gave him to understand very plainly that they would do their best to turn out any Ministry that opposed what they considered the interest of the trade, and pointed out that Lancashire was strong enough to win any fight she went into in earnest. His answer in effect was 'that he had decided to yield for the present.'

"The Secretary of State was between the devil and the deep sea. The tempter was close at hand, while the deep sea of Indian discontent was moaning sullenly in the distance. He told the deputation the sound was always in his ears. It is much louder now.

"It is a great deal louder now, and I can only hope that this matter will be settled without delay, for, as your Lordship will perceive from what has been said to-day and what may be heard outside, it is clear there is no change in the attitude of the public with regard to this matter, and it is exceedingly desirable, for reasons which have been laid before the Council on the last occasion, that no time should be lost in settling it.

"I pass on then from this to consider whether any, and, if so, what savings are possible in the Indian expenditure. The Council will see from what has been said that I do not anticipate any very great savings. I do not see that the main expenses are at all likely to decrease, and therefore the matter stands in this way that the only place in which reductions would appear to be in any way possible is the army. Now, with regard to that I would only say that, looking at the Budget and with such figures as I have had access to, I do not think that you can reduce expenditure very much so long as the army is at its present strength. Savings may perhaps be effected by the strenuous efforts of the Financial Member in connection with the Military Department. But no one but an expert can deal with that mass of details. There are, however, one or two items to which I should like to call the attention of the Council. One is the Commissariat. Commissariat charges are always increasing—there are twelve lakhs more charged for the Commissariat this year, and former years show a strong tendency to increase. I have tried to

discover how this has come about, but it is too mysterious a subject for an outsider like myself. As far as I can gather, there are one or two elements in it which involve some amount of uncertainty. There is a system of compensation for food in the Native army by which there is an allowance made to the men when the bazar rate for certain provisions or grains goes above a certain point, and this, so far as I can make out, appears to be based upon certain price-currents certified to by the Commanding Officer. How this price-current is made is not very clear to me; for the Commanding Officer may not always be a very great authority on the subject of prices, and also, if he is a good Commanding Officer and considerate to his men, which is only very natural, he may not be much inclined to be as hard upon them as the Account Department or some of those other Departments which are said to be devoid of any human feeling whatever—I have very often found them disputing about a pice, and I have known a long official correspondence to have taken place in which the amount involved did not exceed two annas. What I wish to say is that Commanding Officers generally are not men of a close-fisted disposition and it is possible they may not revise these price-currents very accurately. I admit that the Commissariat estimates must increase to some extent, because prices have risen, but the question is, whether the increase is not going up too fast. That, however, is comparatively a small matter.

"And now I should like to make a few remarks on a graver and more important subject.

"My Lord, I am perfectly sensible that the question of the reduction of the army is not a question to be taken in hand as a temporary measure to meet a deficit. More than that, I also understand, very well understand, that if you made any reduction, it would not operate as a reduction in that particular year, and that it would not come into effect for some considerable time. I am also further aware that this matter of reduction is an Imperial one and that it is a matter of high State policy. It is one of the 'arcana of Empire' and is not a matter to be debated on the housetops, and therefore I do not propose to offer any views of my own on the matter at all. I would only say this, that, so far as I can see, unless the Native troops can be diminished in number there will not be any great reduction in the cost of the army. Whether that can be done or not I do not propose to discuss, but I think I am within my right in saying that, so far as I can see from this Budget, unless this is possible there will be no great reduction in expense. It will be of little profit to howl at the Military Member and urge him to look at and reduce all this enormous ex-

penditure. But I have no doubt that the Financial Member will stir him up to as much reduction as it is possible to effect. One thing is clear, that whatever reduction may be made there is no reduction possible in the British army in India. That, my Lord, even at present is standing below the proportion which was considered by the Commission which sat after the Mutiny to be the safe one, and therefore no question can arise on this point. The question of reducing the Native troops is one upon which I do not offer an opinion. Nor will I say anything more as to the reduction of numbers than that it is the only way in which any large saving can be effected.

"Then there are two or three small points to which I should like to refer to. I observe that Rx. 50,000 or 5 lakhs have been set apart for the Afghan delimitation. This is a very moderate estimate. I only hope it may prove approximately correct. But I think the Financial Member will be a very fortunate man if he effects the delimitation of the Afghan Frontier for this sum. I should not like to take the contract.

"The next thing I observe with great satisfaction is the smaller provision for charges for special expeditions: this saving amounts to Rx. 132,000: this is very encouraging and a thing to be grateful for. The only thing is that the Financial Member may have his hand forced by circumstances in spite of his good intentions.

"On the whole it is a Budget in which the main blot is the non-inclusion of cotton goods in the new taxation, but it is one contingent upon so many things—the absence of small wars, the absence of famine and above all the maintenance of the rupee at 1*s.* 2*d.* while its intrinsic value is 10¼*d.*, that the Financial Member can do little more than watch the expenditure and pray for a rise in the rupee.

"There is one other subject of meditation which I would take the liberty of suggesting to my hon'ble friend during his sojourn in Simla, and that is succession or death-duties.

"These duties are very unobjectionable in principle and are paid at a time when the person taxed has just received an accession of property through no exertion of his own. There are no doubt practical difficulties, but I expect they could be got over and the tax would be a very productive one. The present position as to succession-duties is very anomalous. The estates of Europeans, Eurasians, Jews, Native Christians and others not being Hindus, Sikhs, Jains, Buddhists or

Parsis are by the combined effect of the Succession Act and Court-fees Act subject to a succession or death-duty of 2 per cent. including the land. The Hindu who makes a will in Bengal is in the same position. The rest of the inhabitants only pay 2 per cent. under the Succession Certificate Act, 1889, on debts they are obliged to collect through the Court or which the debtors refuse to pay. The Jews are few, and, roughly speaking, it may be said that there is a tax on Christianity in this country, while what the missionaries term the 'heathen' go free. It is time some of the great societies who devote themselves to the religious welfare of this country should raise the cry of free trade in religion. I am aware that this state of things has grown from natural causes so to speak with no intention on the part of Government to favour any religion or nationality. The history of it will be found in the debates of 1889. But this is the present result.

"I now pass on to my last topic, the Home Charges.

"Most of the Home charges, interest on debt, railway guarantees and pensions—are irreducible. Of the £4,000,000 of military expenditure, most of it is in the same position. The charge for stores is being looked to and reduced by getting what can be got in India. But there are old grievances as to past over-payments as regards the army, and this is a chronic irritation as to the charges coming under the head of 'Army effective' amounting to about £800,000.

"This matter was the subject of very serious debates in the House of Lords on the 15th May, 1893, and the 3rd July of that year. They are reported in the 12th and 14th volumes of Hansard for that year. They are very painful reading. They show that the India Office has for over thirty years been systematically overborne by the War Office and the Treasury, that there are old grievances to be redressed as well as the future effective charges to be settled on a more equitable basis.

"We find Lord Northbrook, Lord Cross and the Duke of Argyle (an ex-Viceroy and ex-Secretaries of State for India) going out through the long tale of remonstrances disregarded and charges imposed against their will—the Persian and Chinese contribution, the use of Indian troops for Imperial purposes without payment, and the impossibility of getting a fair adjustment of the charges made in respect of the prior training of British soldiers sent to India.

"Lord Northbrook even went to the length of suggesting that the Secretary of State and his Council should refuse to pay certain of the charges as

being contrary to the Act, which compels him to appropriate the revenues of India to 'the purposes of India alone'.

"I will not repeat what the noble Lords have so ably expressed. It has made a deep impression in this country. People had long known that there was something wrong, but it was impossible to get the details. In the debate of March, 1890, in this Council (Proceedings, page 155), Sir David Barbour promised to look through the correspondence and said that 'if he found that there was any correspondence or other paper which might with advantage be made public he would propose, with His Excellency's permission, that they be published in the Gazette of India.' No such papers have been produced or published. I would suggest to my hon'ble friend that he should cause the material part of the correspondence to be published or explain why this is not done.

"I fear that the debate in the House of Lords gives the key to it. Lord Kimberley then agreed with the other noble Lords and he sought their aid in this unequal fight against possible further demands. But for the rest he said that the able men who advised him in the India Office were against taking steps to refer the matter to any Commission lest it should result in further demands and charges. He has not moved so far as can be seen since that time.

"Some of the papers mentioned in that debate—letters of 1872 and 1874—have been published and show the strong but unavailing fight then made by the Duke of Argyle and Lord Northbrook.

"But the two later papers mentioned by Lord Northbrook, which bring the discussion up to date, have not been published. They are the 'long and able despatch' from the Government of India of the 25th March, 1890, enclosing a note by the Military Secretary, and the Secretary of State's despatch to the Government of India of the 18th August, 1892.

"As to the India despatch of 1890, stating the principles according to which the Government of India consider these charges ought to be settled, Lord Northbrook said: 'His hon'ble friend (Lord Kimberley) the other day expressed a doubt whether the despatch could with advantage be laid before the House, and, on that ground, he would abstain from moving for it. But if at the end of the present session nothing had been done in the matter, it was only fair that that despatch and other despatches sent by his noble and gallant friend to the Government of India should be produced in order that public opinion might

be brought somehow or other to support and strengthen the Secretary of State in the difficult position he was now placed."

"The Secretary of State is apparently still afraid to move, but the matter cannot be left here. People in India must be given the means of making up their minds whether they will sit down under what all those noble Lords, and apparently the Government of India, consider to be unfair charges or take the verdict of Parliament.

"The charges in question are mainly comprised under the head Army Effective charges, which amount to between £800,000 and a million. There are also shown the Political charges for Persia, China, etc., which ought to be reduced if not done away, and if fixed should be fixed in silver and not in gold, being Eastern charges. Some of the Non-effective charges are also challenged. The rest of the Home Military expenditure or most of it is, as I have said, irreducible except so far as we can buy our stores in India.

"Now, the Secretary of State and his able advisers may be right in thinking they will get no redress but only fresh claims. But, so long as those noble Lords who spoke in the debate and the Government of India are of opinion that the charges are not fair, public opinion here, so far as I can gather, is unanimous that the matter must be decided and that it is better that it should be fought out rather than it should be said that it is hopless to urge any claim of India which touches British pockets. Had the Secretary of State known the invincible tendency of the natives of India to carry every matter up to the ultimate Court of appeal, he would not have resolved on this course. He would have bethought him of the Madras litigant who petitioned in vain up to the Secretary of State and had many petitions returned as not having come through the proper channel, and who wound up with a last despairing petition to 'Almighty God, care of the Governor of Madras.' With all our faults as a nation, I hold to the belief that there is a strong spirit of justice and fair play underlying the British character which will answer to a clear and ringing appeal. I do not doubt the desire of the House of Commons, the ultimate arbiter, to do justice; the fear is that the case is too complicated and the issues may get confused. The risk must be faced and the controversy decided one way or another. It is a political necessity it should be. I hope the result will not show us, like the worshippers of Baal, crying to deaf ears while the Secretary of State and his able advisers in the India Office mock us, saying 'cry louder; peradventure he is asleep or on a journey.'

"The feeling of injustice has been intensified by the exemption of the cotton goods. People say—'you demand gold from us which competent authorities say you are not entitled to in equity or law, and you refuse to allow us to impose equitable taxation to pay it.'

"For the rest, I am glad to see there is a diminution in the Secretary of State's Budget for the year in respect of salaries—some redundant officials have disappeared—*inter alia* a 'senior supernumerary clerk' and an 'Assistant Private Secretary.' There is a saving made of a little over £4,000 in India Office salaries. The pensions appear, however, to be very heavy and on a very liberal scale, though I have not sufficient information as to the principle on which they are granted to comment upon them, except that Indian officials, who already have Indian pensions, seem to get fresh pensions from the India Office, and that India contributes to the pension of the Chairman of the Board of Inland Revenue because of his former services as Deputy Director of Military Accounts at the India Office.

"As to those ancient pachyderms the War Office and Treasury, they guard each their own interests and look at nothing else. The more charges they can throw on India to their own relief, the better they are pleased. As to getting a refund from them, it is like trying to get a pat of butter out of a dog's mouth."

The Hon'ble DR. RASHBEHARY GHOSE said:—"My Lord, the spectacle of a Finance Minister struggling against adversity cannot fail to call forth our respectful sympathy, and Mr. Westland has shown that, although he is obliged to pursue the wrong, he both sees the right and condemns the wrong he is doomed to pursue. My labours have, I am glad to say, been considerably simplified by the previous speakers, who have spoken with an authority and experience which I cannot pretend to possess. I will, therefore, confine my observations only to one or two features of the Budget we are met to discuss. I am sorry to say, my lord, that the Financial Statement which has been placed before us confirms the worst misgivings felt by the public when cotton goods were excluded from the Tariff Act. The bulk of the Famine Insurance Fund has been appropriated to the purposes of general administration, while the Provincial Governments have been also called upon for contributions out of their not over-abundant means. In the words of the Hon'ble Finance Member, this last measure 'practically means the stoppage for the time of all administrative improvement, a measure which they feel must take all the heart out of Provincial Governments, by making them surrender all the fruits of careful administration to fill the yawning gulf of our sterling payments.' The suspension of the

Famine Grant, or the Famine Insurance Fund, as it is generally and properly called, is a still more serious matter, the gravity of which cannot be over-estimated. In introducing the Tariff Bill, the Hon'ble Mr. Westland said—

'The next head—that of FAMINE—includes, besides what is usually a small amount of actual famine expenditure, the grant which we make out of our surplus revenues, when we have any, towards protective irrigation and protective railways. We have at present a compulsory expenditure under the last category of about Rx. 380,000 towards the loss accruing to Government on account of the Bengal-Nagpur and Indian Midland Railways. This amount is now shown in the Railway account, but the balance of Rx. 1,500,000, after this loss is met, is used, when we are able to afford it, for actual construction of railways and canals.'

"Now this language can hardly, I venture to think, be reconciled with the declarations of Government when the fund was first created out of the proceeds of certain taxes which were imposed for the first time in 1878 by the Government of Lord Lytton. The previous speakers have already referred to the pledge repeatedly given by his Lordship and I need not further dwell upon it.

"On the 27th December, 1877, Sir John Strachey, in laying the Financial Statement of the coming year before the Council, thus explained the objects of the fund:—

'Unless, then, it should be proved hereafter by experience that the annual appropriation of a smaller sum from our Revenues will give to the country the protection which it requires, we consider that the estimates of every year ought to make provision for religiously applying the sum I have mentioned to this sole purpose, and I hope that no desire to carry out any administrative improvement, however urgent, or any fiscal reform, however wise, will tempt the Government to neglect this sacred trust.'

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'I feel confident that I shall be able to satisfy the Council and the public that the resolution which the Government has proclaimed will be faithfully carried out, and the proceeds of these new taxes will be expended for the purpose of providing what I have called an insurance against famine, and for no other purpose whatever.'

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'The object which I thus stated is a perfectly simple one. These new taxes are required for the sole purpose of giving us, year by year, a sufficient surplus of income over expenditure, to meet these famine charges, which had not hitherto been taken into consideration in our yearly accounts.'

"It is true that some Finance Ministers have since declared that in their opinion the Famine Insurance Fund could be resumed a case of imperative necessity, but these declarations are opposed to the solemn pledge given by

Lord Lytton as the representative of the Queen-Empress in India. But suppose, in a very exceptional case, to avoid exasperating sacrifices or the imposition of extravagant burdens, to use the language of Sir Auckland Colvin, the Famine Insurance Fund may be trenched upon, has any such case been made out in the present instance? I submit not, and I fear, my Lord, the public would continue to believe that the fund which was created for the purpose of developing the resources of the country and of saving the lives of millions from famine has been sacrified for the purpose of serving the interests of a few English manufacturers. And this brings me to another question—the exchange compensation allowance—a subject on which I will only say that opinion is very much divided. Now, the question will be asked, even by moderate men, at this moment whether it is either fair or just that the taxes raised for the purpose of protecting the people from famine should be applied to increasing the salaries of the European servants of the Government. I find that the Hon'ble Mr. Westland in his speech in introducing the Tariff Act said :—

'There is another serious burden, arising from this same fall in the value of the rupee, which we have to bear, namely, the compensation which we have to pay to our European services for the fall in the exchange value of their salaries. The necessity for this had been pressing itself upon the Gover$_{nm}$ent for some time, and it was only with some hesitation that the Government decided, when the Budget Estimates last year were under consideration, that the decision on the question must be put off until the settlement of the curreney measures then under consideration of the Herschell Committee. When these measures were settled, the announcement was made that an allowance would be made to the class of Government officers to which I have referred, of which the amount would be equivalent to the remittance of half their salaries (up to a maximum of £1,000), at an exchange of 1*s.* 6*d.*

'In justification of the necessity and policy of this measure of limited compensation I wish to quote two or three weighty opinions, carefully guarding myself against any mere official utterance, which might under the circumstances be considered to be affected by personal considerations. The first is an extract from the address of the spokesman of the deputation to Lord Lansdowne of February 3rd, 1893, which declared itself as representing merchants, traders, shipowners, bankers, landowners, producers, manufacturers, importers and exporters, and which certainly did not contain a single European official member :—

'"My Lord, we freely confess to a strong feeling of sympathy with the servants of Government who find their incomes daily dwindling, and who in consequence are in some cases put to severe straits, such as are calculated to do serious injury to the efficiency of the administration. We realise, in fact, that it will be absolutely impossible for Government to carry on the administration on the present terms. We are strongly convinced, however, that the adjustment of salaries and all other adjustments can only be properly effected by the reform of a currency system which has gradually, but with increasing rapidity, brought the country to the present pass."

'The Herschell Committee, whose standpoint was a purely impartial one, reported on the same subject as follows :—

'" 17. The difficulties which the Indian Government have in meeting the Home charges are aggravated by the fact that the fall in exchange has led to claims on the part of their officers, civil and military, who receive salaries in rupees, to some compensation for the loss which they sustain owing to the fall in exchange. Many of those officials are under the necessity of remitting a considerable portion of their income to this country for the support of their families and the education of their children. It has been said that prices have fallen in this country during the last fifteen years, and that a smaller sterling remittance will now purchase more than formerly. This is no doubt to some extent true, but it does not apply to all prices. It is a matter of dispute how far the fall of prices in this country compensates for the smaller sterling remittance which the same number of rupees will procure ; but it is certain that, when due allowance has been made for this, the purchasing power of the incomes of Indian officials has been largely reduced.

Servants of Government.

'" 18. It appears that some European employers have felt themselves bound to make an allowance to the Europeans in their service in India sufficient to counterbalance to some extent the loss which they experience owing to the fall of the rupee ; and there can be little doubt that even in existing circumstances, and still more if the fall of exchange continues, the Government of India cannot turn a deaf ear to the appeals of their servants for similar treatment without the danger of engendering serious discontent, apart from the question whether such appeals are just and reasonable."

Practice of private employers.

" We have here, if I may say so without offence, presented to us only one side of the question With regard to the address of the spokesman of the deputation to Lord Lansdowne, we cannot shut our eyes to the fact that they represented what is known as the Currency Association, and that all that they meant to convey was that the reform in the currency system which they were advocating would put an end to the demand for exchange compensation by the European servants of the Government. With regard to the recommendation of the Herschell Committee, it is to be observed that while conceding that prices have fallen in England during the last fifteen years to some extent it is asserted that some European employers have felt themselves bound to make an allowance to their European servants as compensation for the fall in the value of the rupee, an example it is suggested the Government of India might well follow. I am, however, bound to say that, although I have made enquiries in the matter, I have not heard of any such allowance being made by private employers of Europeans in this country. As I have already said, there is another side to the question which derives peculiar importance at this time from our present financial condition. That view has been presented to Government by the Press, by public speakers, as well as the different political associations in the country. I will here, with the permission of the Council, read a passage from a memorial submitted to Government by the Puna Sarvajanik Association. After pointing out that the supply of educated men in England has increased considerably since the salaries of European servants

in this country were settled on their present basis, the Assocation goes on to say :—

'The Committee would further submit that the present scale of the salaries of the European officials in this country was fixed at a time when it took six months to go from here to England and when those that came out to India had practically to live the life of exiles, when periodical trips to England could not be thought of, and when, owing to the absence of railways and other conveniences, the Europeans serving in this country had to live for the most part in complete isolation from one another. All these unfavourable conditions of life have, however, now changed for the better. In these days of cheap communication, when railways and steamers have annihilated distance, residence in India cannot be so irksome or costly to the European as it must have been in old times. Under these circumstances, privileged rates of remittances constituted nearly the whole of the indulgence which European officers of Government who had to make such remittances could claim equitably. The present scale of Indian salaries, in the higher grades especially, as compared with the English and Colonial scales, is again so excessively high that, even with silver low as it is, these salaries cannot fail to be a great attraction to English youths. As a matter of fact, competition for Indian posts has not been found to be less keen than ever it was before.

'The Committee of the Sabha would, therefore, respectfully pray that, for the reasons stated above, His Excellency the Viceroy in Council will be pleased to reconsider these rules with a view to introduce such modifications in them as would (1) prevent retrospective effect from being given to them; (2) limit the privilege to actual remitters up to certain amount; and (3) exclude Eurasians, who presumably have no English domicile; and (4) lastly, that His Excelleney the Governor General in Council will order that no officer who has entered Government service during the last five years, or who may enter it hereafter, should be entitled to the special privilege secured by these rules.'

"But even allowing every weight to the recommendation of the Herschell Committee, the question now is not whether the Government of India can fairly turn a deaf ear to the appeals of their servants for compensation for the loss sustained by them owing to the fall of the rupee, or whether such appeals are in themselves from an abstract point of view just and reasonable. That is not the question; that is not the issue now. The question is whether, having regard to the present condition of our finances, when, in the words of Mr. Westland, we must follow a programme of retrenchment and of vigilance, intended to tide us over a transition period, the Famine grant should be suspended, even for one year, instead of the compensation allowance. The question now is whether, in order that such allowance should be paid, all administrative improvements should be suspended and even a few lakhs of rupees wrung out of the Provincial Governments out of the fruits of careful administration. In other words, the question is whether, in view of the imperious necessity of filling up the 'yawning gulf' in our finances, the

compensation allowance should not either be abolished, reduced o modified, or at least suspended during the period of transition, in preference to the mode which has been adopted for restoring the equilibrium of our finances. In conclusion, I must say that we are all sensible of the difficulty in which the Government of India has been placed owing to the opposition of Her Majesty's Government to the re-imposition of the cotton duties—an opposition which has driven the Government of India to take measures which would seriously retard the improvement of the country, cripple the resources of the Local Governments, and may possibly, in the event of a famine overtaking us, result in the loss of thousands or even millions of lives among the poorer people in this country."

The Hon'ble LIEUTENANT-GENERAL BRACKENBURY said:—"I came into this Council room prepared to answer in detail or in bulk any criticisms that might be made upon military expenditure, and I must say that I have been most agreeably surprised to find how slight those criticisms have been. My hon'ble friend Mr. Playfair said that he did not look on the army as a financial reserve for the Government of India. I welcome that statement, and I think it is an expression of the sound commonsense which is the characteristic of the commercial community in this country. My hon'ble friend Sir Griffith Evans has strengthened the hands of the Government of India in recognizing that it is necessary to keep up a strong British army in this country, and he has generously said that he believes that, if the strength of the army is to be maintained, it cannot be maintained more cheaply than it is now. He has suggested one or two points of criticism to which I shall gladly presently reply, and he has again strengthened our hands, I hope, for the future in pointing out how difficult it would be to maintain such a reduction as that made this year in military works. He has certainly done more for us by that statement than he has done against us by his criticisms in regard to the Commissariat and the numbers of the Native troops, which I am sure I shall be able to meet to his satisfaction. But my hon'ble friend Mr. Playfair invited me to 'meet with the same degree of fulness the arguments raised in certain quarters for the reduction of the military expenditure.' My Lord, I have never seen such arguments. I have seen denunciations, I have seen invectives, I have seen statements and assertions, and I have seen appeals to the Government of India to reduce expenditure, but I have never yet seen one single argument. I have seen no argument put forward by anybody to show that military expenditure in this country could reasonably be reduced. I think that the absence of intelligent criticism may partly be due to the fact that very few people who question the causes of this military expenditure are properly informed, because our military estimates are not, as a rule, explained in this Council in the manner they are in the Parliaments of other

nations; and I think it is desirable, in the face of the appeal which has be enmade by my hon'ble friend Mr. Playfair, that I should state as briefly as I can what is the nature of our military expenditure, how that military expenditure is divided between home and this country, and why that military expenditure cannot be reduced. In doing this I will deal with the estimates of the present year as compared with the estimates of the past year, and I wish openly to state here that the Government of India has nothing to conceal in this matter, that it courts the fullest publicity as regards its military expenditure, and that it welcomes and will always welcome any practical suggestions made to it in the direction of economy.

"Our military expenditure may, first of all, be classed under two heads—expenditure in India and expenditure at home. Over expenditure in India your Excellency's Government exercises practically direct control. Over expenditure at home, except as it is affected by India's demand for stores, the Secretary of State exercises entire control. Now, I would first deal with military expenditure in India. Military expenditure in India comes under three separate heads. First, there are what are called the Indian Budget Estimates; second, the Military Works Estimates; and, third, the Special Defence Estimates. Taking the Indian Budget Estimates first, these contain provision for the general administration of the army in India, British and Native troops, for the pay of the troops, for feeding them, for clothing them, for the provision of horses for the mounted troops and for army transport, for medical and surgical attendance on men and horses, and for the provision of all the weapons and material of war. Last year, in speaking in this Council, I pointed out that from 1884-85, which was the year when military expenditure had touched its lowest after the Afghan War, there was a great jump in the year 1885-86. That year was a year in which the army, both European and Native, was largely increased and resolutions were taken to prepare for mobilization, and to have the army at all times fully equipped and ready for war. I showed that between 1885-86 and 1893-94 there had been a rise of Rs. 62,00,000 in the Military Budget Estimates; but that, of this Rs. 62,00,000, Rs. 57,50,000 were due to the fall in exchange, and that the actual increase in all those years, apart from what was due to fall in exchange, was only Rs. 4,50,000. Now, we have almost exactly the same tale to tell this year. It is essential that I should deal with net figures in dealing with military expenditure, for our receipts in many items rise directly with our expenditure. The net figures of the Budget of 1893-94 that is, last year, were Rs. 14,98,16,000. The net figures for 1894-95, that is, the present year, are Rs. 15,41,67,000, showing a rise of Rs. 43,51,000.

Of this, Rs. 39,00,000 are due to exchange, leaving as due to other causes a rise of Rs. 4,50,000 this year. This rise of Rs. 39,00,000, to explain it more closely, is made up in this way. There is a sum of Rs. 46,50,000 for exchange compensation, and there is on the other side as against that the sum of Rs. 7,50,000 due to the British soldier's pay, which is taken, subject to revision, at 1*s.* 3¼*d.* instead of 1*s.* 2¾*d.* Now, we have, as I have said, in our estimates a sum of Rs. 46,50,000 for exchange compensation allowance. That exchange compensation allowance has been attacked to-day in this Council, and I will endeavour to show why I think it is absolutely necessary that it should be given to all the officers of the army. The pay and allowances of the officers of the Hon'ble East India Company's service were fixed in the last century. They were composed of two parts. They included British pay, converted into Indian currency at the rate of 2*s.* 6*d.* to the rupee, together with certain allowances fixed in rupees. We have three classes of officers now; first, the officers of the Indian army. The few of them who still remain receive exactly the same pay and allowances as in the old Company's days. Secondly, the British officers. The pay and allowances of the British officers were fixed in the days of the Hon'ble East India Company. The principle followed was to make their pay and allowances, as a whole, equal to those of officers of corresponding tank in the Company's service: this equalization was carried out in 1797 and 1811. While as regards the third class of officers, that is, the officers of the Staff Corps, their pay was fixed in 1861 at identically the rates of the lower scale which had for many years been in force for infantry officers of both the Hon'ble East India Company's service and the British service when not in the field and when serving within two hundred miles of the seat of the Government of each presidency. Thus, the basis of pay of all the military officers serving in India is the pay of the same ranks in England converted at the rate of 2*s.* 6*d.* to the rupee, and the allowances in rupees were fixed at a time when the commercial value of the rupee had never, I believe, fallen below 1*s.* 1*d.* and when the Government rate of exchange had never fallen below two shillings. Now, with a rupee at or below 1*s.* 3*d.*, as it now is, it is evident that the sterling value of the allowances of these officers has fallen 50 per cent. and that the sterling value of their pay has fallen 37½ per cent., while I think that no one can deny that the cost to a British officer of living in India has risen rather than fallen, that there has been a general rise in the price of British goods, and that there is ample evidence to show that prices in India are rising rather than falling as apart from British goods. Under these circumstances, the rate of their pay having fallen 50 per cent and of their allowances 37½ per cent., so great was the

hardship from which officers were suffering that some measure of relief had become not only an act of the most elementary justice but an act of absolute necessity.

"Now, turning from the exchange compensation allowance to the question of the Military Budget Estimates, I said that, setting aside the differences due solely to exchange, there is a rise this year over last year of Rs. 4,50,000 in the estimates which has to be accounted for. One item alone, and a very unforeseen item, very nearly accounts for it. We had a very bad fire at Peshawar last autumn, and Commissariat godowns, containing great quantities of stores and equipment, were burnt to the ground. The replacing of these stores will alone cost over Rs. 3,80,000. The second item—an incidental item it may be called—is this. Last year, by a mere chance, one of our cavalry regiments was absent for half the year, having been sent to Egypt, and therefore we only took into account in last year's estimates the maintenance of that cavalry regiment for half a year. This year we have to take it for the whole year. That gives Rs. 3,10,000, making, with the above sum of Rs. 3,80,000, on these two items alone a sum of Rs. 6,90,000 as against our total rise of only Rs. 4,50,000.

"The estimates vary in their items and details very much from year to year. Increases in one part of the estimate are met by decreases in another. Decreases, I am sorry to say, are generally more than balanced by increases. I do not wish to trouble the Council with details, but there is one item of increase which I think it is necessary to speak about, and the more so because it is one of those which formed the subject of criticism by my hon'ble friend Sir Griffith Evans. And that is the question of the Commissariat accounts. These show in the estimates for this year an increase of Rs. 4,90,000 due to rise in the price of food. There was also an increase last year due to the same cause. I made this the subject of a special enquiry and was furnished by the Commercial branch of the Finance Department, through the Commissary General, with some figures as to prices in India which I think Hon'ble Members of this Council will find, as I did, somewhat startling. The number of seers of different articles of food which can be purchased for a rupee at different stations, and certain characteristic stations, were taken, and going back to the year 1884, the lowest, as already explained, in military expenditure, since the Afghan War, I find that the price of rice has risen 38 per cent. between 1884 and 1892 on the average of Madras and Rangoon; wheat, which we have taken for seven stations, has risen 72 per cent. between 1884 and 1892; barley, which is one of our most important items as food for horses, has risen 85 per cent. between 1884

and 1892; and the price of gram has increased 49 per cent. between 1884 and 1892, taking such stations as Cawnpore, Delhi, Rawalpindi and Karachi. Now, this is a very remarkable fact, and when my hon'ble friend Sir Griffith Evans asked whether we would enquire whether the Commissariat prices have not risen a little too fast, I am happy to inform him that the Commissariat prices have not risen so fast as the prices given to us by the Commercial Branch of the Finance Department.

"I now come to another subject of friendly criticism by my hon'ble friend Sir Griffith Evans,—the question of compensation for dearness of food to Native soldiers and the compensation for forage also given to Native soldiers in the silladar cavalry regiments. Sir Griffith Evans seems to think that the rates of compensation were solely dependent on the certificate of the Commanding Officer. That is not so. It is perfectly true that a certificate is sent in by the Commanding Officer that these were the ruling rates in the bazar at the time, and that upon that the claim for compensation is admitted. But that claim is subject to what I consider a most important check. It is subject to audit in the Controller's office, it is subject to check by what is known as the *nirik* prices, which are not prepared by the Commissariat Department or by the Commanding Officer, but by the Civil Officer of the district, and which are certified to by him; and that is the check upon any possibility of collusion between the Commanding Officer or his men, which would be very unlikely, or between any one in the Commissariat Department and the men. That is, I consider, a most necessary, separate and independent check.

"I do not know that, as regards these Indian Budget Estimates, I need trouble the Council any further. I have shown that, apart from exchange, there is a rise of Rs. 4,50,000 this year which is due to circumstances over which we have no control.

"The next matter to which I will refer is the Indian Military Works Estimates. These estitmates provide for the construction and maintenance of all military buildings for British troops, and in certain places for the barracks for Native troops, for military roads, for the maintenance of all our defensive works, and for the construction of all such works, other than some to which I shall presently allude, that have been provided for in the Special Defences Estimates. Upon these Military Works Estimates fall the cost of water-supply and drainage of our cantonments and all barrack establishments, also the construction and

maintenance of military hospitals. Those of this year show a reduction of Rs. 19,42,000 over last year. Now, I may say at once—and in doing so I am speaking for the Government of India as well as for the Commander-in-Chief and myself—that we have agreed to a reduction this year to meet a financial difficulty; but it will be very easy for me to show how impossible it would be for such a reduction as this to be continued. The system of devoting a fixed grant to military works was settled in 1880, and it was then arranged to give one crore of rupees for military works. That was 21 per cent. below the average expenditure of the previous five years, which had varied from Rs. 1,18,00,000 to Rs. 1,33,00,000 per annum. And therefore the fixed grant given in 1880 was 21 per cent. below the average expenditure of the previous five years. Since that time all the following additional causes of expenditure have been thrown upon the crore:—there has been an increase of 10,000 British troops; Baluchistan has been occupied and barracks for the troops have been built; Upper Burma has been annexed and barracks for the troops have been built there; and in addition to that the great demands of sanitary science have compelled us, and rightly compelled us, to do a great deal more for the health of the troops than had been done previously; a water-supply—above all, a pure water-supply—is one of those things which we have endeavoured to obtain for the troops. In 1880 also it was only to the needs of British troops that this crore was applied, but since then we have had to send Native troops to out-of-the-way places like Baluchistan, where they have to live in severely cold climates, where such huts as they can build with unskilled labour are utterly insufficient, and consequently we have been obliged to build lines for them; and this again and the maintenance of these buildings are drawn from the crore. Last, but not least—the straw that breaks our back—there has come this year upon the crore the charge for exchange compensation allowance for the establishments maintained by that crore. The result is that, though we have agreed to this temporary reduction to meet a financial difficulty, it means practically the undertaking of no new works, the diminution of the amount for repairs desirable to military roads and buildings, and I would say an almost complete stoppage of all sanitary improvements.

"I now turn to the Special Defence Estimates. These Indian Special Defence Estimates contain provision for the original works of certain special defences, such as the defences of the seaports of Calcutta, Bombay, Madras, Rangoon, Karachi and Aden, and the defences of the passages of the Indus and the defences of Quetta. The maintenance of these special defence works will fall again upon the Military Works Budget.

The Special Defence Estimates are only for the original works. In 1890-91 the Special Defence Estimates in India were Rs. 53,66,000; for 1894-95 they are only Rs. 15,23,000; so that there is a diminution here of Rs. 38,43,000. This is due to the fact that the expenditure on original works is coming to an end, and also that we have taken as little as possible this year of the amount remaining to be spent.

"Thus, taking all these different estimates, as far as India is concerned, there is an increase of Rs. 43,51,000 on the Military Budget Estimates as against a decrease of Rs. 57,85,000 on the Military Works and Special Defence Estimates, which gives a total reduction as compared with last year of Rs. 14,34,000, a reduction which, had it not been for the exchange compensation, would have been Rs. 60,91,000.

"I will next speak of expenditure at home. Expenditure at home comes under three different estimates. These are what may be called the Army Estimates for Effective Services; the Army Estimates for Non-Effective Services; and lastly, the Special Defence Estimates. In 1893-94 the Effective Army Estimates were £2,244,100. This year they are £2,069,200. There is therefore a reduction in the Effective Army Estimates at home of £174,900 this year. Of this reduction we can really only claim here in India the credit for £10,000. We have made our demands for stores this year less by £10,000 than they were last year. The remainder is due to a regulation of payments between the Secretary of State for India and the Secretary of State for War. It is always a complicated business, and we never can know how much we shall have to pay in one year and how much will hang over for the next; but I can only say that the whole of those effective estimates are due to payments under the orders of the Secretary of State which it is very difficult indeed for us to check. As regards the Non-Effective Estimates, those for 1893-94 were £2,253,400; those for 1894-95 were £2,351,600; giving an increase this year of £98,200. That increase has as yet been scarcely explained to us by the Secretary of State. We cannot control that. It is practically a question of our share of pensions, deferred pay, and so on, for the British army, and it is a question of pensions also to the officers of the Indian Services. The rise or fall in it is automatic and practically out of the control of the Government of India.

"Next, as to the Special Defence Estimates at home. Last year, that is, 1893-94, they amounted to £174,700. This year they are £22,600, showing a

decrease of £152,100. Now, whereas the special defences in India are for works, the special defences at home are for armaments, and these home Special Defence Estimates show this great reduction for the same reason that the Indian ones do, namely, that the works and the armaments are coming to an end.

"The summary of all this is that on the whole the Home Military estimates this year as compared with those of last year show a total reduction of £228,800, or something like Rs. 39,00,000 at 1*s.* 3*d.* exchange. The total reduction upon the whole estimates at home and here amounts to Rs. 53,34,000, and that after taking into account exchange compensation allowance, but for which there would have been a decrease of a crore.

"I have thus shown that we have effected this year a very considerable decrease in our military expenditure both in India and at home.

"And now I wish to say a few words on the general question of military expenditure. First of all, as regards those home charges to which my hon'ble friend Sir Griffith Evans has alluded. It is well known that the Government of India has long held that the home charges were greater than the Government of India thought that they ought to be. The Government of India has made repeated representations on that subject to the Secretary of State, and the Secretary of State has,—there is not the slightest doubt,—given to those representations his most earnest attention. The question of outstanding accounts between ourselves and the War Office had attracted a great deal of attention, and a committee was formed with Lord Northbrook as president which took the question of these payments into account. The result was a very considerable diminution on the recommendation by Lord Northbrook's Committee of the amount which India had to pay to England, and the fixing for the future of a capitation grant of so much per head per man to be paid to the War Office in lieu of the old system of assessing those charges year by year. That no doubt has effected a considerable reduction in our expenditure. But we were still not satisfied; and not long ago—my hon'ble friend Sir Griffith Evans has quoted the date of the Despatch as having been mentioned in the House of Lords—we did in 1892 address the Secretary of State and ask him to have this question still further taken into consideration by a Royal Commission; but the Secretary of State has replied to that Despatch, and he says that he does not consider that the questions at issue are such as can be taken into consideration by a Royal Commission; that they involve questions of great

Imperial policy, and therefore he does not think it desirable to adopt our suggestion. It will still be open to us, I presume, on any particular points, to press for any change or to invite reconsideration by the Secretary of State.

"As regards Indian charges, that is to say, military expenditure in India, with which I am of course more directly concerned than with the home expenditure, the position of the Military Member of Your Excellency's Council is always a very difficult one. He has, as it were, a double responsibility. He is jointly responsible with the Commander-in Chief for the efficiency of the army; for under him (the Military Member of Council) are those great services the Commissariat and Transport Department, the Ordnance Department, the Military Works, the Remount Department, on the efficiency of which the efficiency of the army very largely depends. He has, therefore, a joint responsibility with the Commander-in-Chief for the efficiency of the army and also that great responsibility which he shares with every member of Your Excellency's Council—the responsibility for economy and in such a time as this the responsibility for keeping expenditure down as low as possible. It is never an easy task. In times of financial pressure it is a most onerous task: My hon'ble friend Sir Griffith Evans spoke in the recent debate on the Tariff Bill of my hon'ble Financial colleague grovelling in the dust-heaps among fish-maws and shark-fins to meet a deficit of 3½ crores. I think, if he were to see the Military Secretary, Sir Edwin Collen, and myself wrestling with such questions as whether we should allow another kerosine lamp in the ward of a hospital or another sweeper in a camp in the hills, or whether we should allow British soldiers in the hills to have hob-nails for their boots, I think he would extend the same pity to us as he has extended to our Financial colleague. I can only say that it is only possible to carry out this task if the Military Member has, as I have had, a Financial colleague who wisely recognises that there is a point beyond which it is impossible to effect reduction, and a Commander-in-Chief who, with broad and statesmanlike views, has accepted the difficulty of the financial situation and has been willing to aid me in reducing expenditure. But I think that if my hon'ble friend had seen the Commander-in-Chief and myself with a long list of items before us—items every one of which we had accepted for consideration in the estimates, recognizing that each one would either improve the efficiency of the army or the health or the comfort of the soldier—and if he had seen us ruthlessly compelled to strike out these items one after another, some of them amounting to a few rupees, some of them to lakhs of rupees, because of the financial situation, I think he might have used another scriptural simile and might have rightly compared us to two fond and loving fathers of families who were ordered by Herod to take part in the massacre of the innocents.

"My Lord, the fact of the matter is that the bulk of the Indian Military Budget Estimates cannot be touched. These Estimates are based upon fixed numbers of troops, fixed rates of pay and allowances, fixed scales of food and clothing, fixed armaments and fixed reserves of stores. The establishments are kept as low as it is possible to keep them, and there are only three possible methods of effecting a reduction of military expenditure. These are (1) either reducing the number of troops, or (2) reducing the pay of the troops, or (3) reducing the reserves of stores. Now, I will deal with the last first. There is hardly anything more easy than to effect a reduction of military expenditure by reducing the reserves of stores. It is so easy that there is great temptation to do this whenever a Government finds itself in financial difficulty; but I believe it to be the most wicked and the most wasteful thing which can be done, especially in India. I was a member in England a few years ago of a Royal Commission of which Lord Hartington was chairman on the military and naval administration of the United Kingdom. Lord Hartington had been Secretary of State for War and Secretary of State for India. Other members of that Commission were Mr. Smith, who was at the time First Lord of the Treasury and had been Secretary of State for War; Lord Randolph Churchill, who had been Chancellor of the Exchequer and Secretary of State for India; and Mr. Campbell-Bannerman, who had been previously, and now is, Secretary of State for War. On many points we may have differed, but on one point we were absolutely unanimous, and that was that we thought it so dangerous, even in England—this temptation of Governments to reduce their reserve of stores in order to get money in time of emergency—that we unanimously agreed that it should be an instruction to Secretaries of State to publish to Parliament what was the authorized reserve of stores and how far the reserve in every department corresponded with the authorised reserves, in order to put it out of their power to reduce these reserves without its being known to the public. If that course be so wasteful and dangerous at home, where you have all the great manufacturing establishments in England at your disposal, how infinitely more dangerous and wasteful would it be in India, where we are dependent upon England for the greater portion of our materials of war? The second method which I have indicate d is that of reducing the pay of the British troops. You cannot reduce the pay of the British soldier. It is based on contract and is untouchable by you. It would be most unjust and you cannot do it. And, as regards the Native troops, I would wish to point out that here, as in England, ours is the only one nation in the world whose proud boast it is that every soldier in the army is a volunteer. We have

no conscription, and if you are to keep up a volunteer army you must go into the market and pay such a rate as will get you the right class of recruit. All my information goes to prove that it would be quite impossible to reduce the pay of the infantry soldier of the Native army below what it now is, and we have only recently had to raise the pay of the soldiers of the silladar cavalry in order to get the right men.

"I come at last to this question, can the numbers of the army in India be reduced? That is not a question on which I would personally wish to express an opinion, for this reason, that the strength and number of the troops as they now are have been definitely fixed by the Government of India and the Secretary of State. After reviewing the condition of India, they have been fixed according to what is considered necessary for safety against external and internal danger. That strength is reviewed by the Government of India from time to time, and has recently been reviewed by us and by the Secretary of State, and no reduction of the army in India can be made by the Governor General in Council alone. No reduction can be made except on well-considered grounds, carefully studied and so reasoned out as to convince Her Majesty's Government; because the strength of the army in India is not only a question of Indian but is a question of Imperial policy.

"I wish I could say that, even with the present strength of the army, there is no probability of a rise in military expenditure, but I cannot honestly say that. I have shown one steady cause of increase—increase in the food prices; food alone amounts in our budget estimates to 180 lakhs per annum. Wages too have undoubtedly risen; we cannot get followers for the same wages as formerly. We have been obliged in some instances to raise the rates of their pay, and I am very much afraid that further rises may take place. Special defences erected out of the Special Defences Grant are now all perfectly new, but bye and bye they will require renewal and their renewal will fall upon the Military Works Grant. All those things which we have to purchase at home are increasing in cost. As the rupee falls prices rise, and not only is our British cavalry largely, but our British artillery is entirely dependent upon Australia for horses, and Australia is a country with a gold currency. The volunteers are a constant and steady source, I am very happy to say, of increase in our military expenditure, because their numbers and the numbers of efficients are constantly increasing. Sanitary demands upon us cannot, I venture to think, be withstood. A pure water-supply and better sanitation for our cantonments, in order that that curse and scourge of India, enteric fever, may be reduced—these are absolutely necessary; and above all things there is one class of our estimates

in which expenditure has risen—and if science continues to go on doing for military armaments what it has done in the past, expenditure will continue to increase in a most extraordinary way. I refer more particularly to the ordnance part of our expenditure. To give you some idea of what these changes in armament mean with regard to increased expenditure I will cite a few instances. We have recently re-armed our field batteries with 12-pr. breech-loading guns instead of 9-pr. muzzle-loaders. The 9-pr. muzzle-loading gun cost £90 and the 12-pr. breech-loading gun costs £270; that is three times as much as the 9-pr. The 9-pr. battery cost £2,652, while the 12-pr. breech-loading battery costs £5,325. Again, we have recently armed our British infantry with the Lee-Metford magazine rifle. The rifle itself costs little more than the Henry-Martini, but its ammunition costs Rs. 103 per thousand rounds as against Rs. 52 per thousand rounds for the old rifle. The shells for the 12-pr. cost £68 per hundred and shells for the 9-pr. cost only £15 per hundred. The sights of a 9-pr. again cost £2 apiece, while the telescopic sights for the 12-pr. cost £12. To turn to the larger ordnance. It is a very long time, quite a matter of ancient history, since I joined the army. But when I joined the army the largest gun was a 68-pr. and the price of it was £97. The price of a 10-inch gun mounted in India now is £10,000, and only a few years ago, before your forts were re-armed, the 9-inch gun mounted in India cost only £1,500. The projectile of the largest gun in the service now costs £23, so that four shots from the largest gun in the service now cost as much as the largest gun cost when I joined the army. These facts will give you some idea of the uselessness of talking about reducing military expenditure in the face of the greatly increased expenditure arising from improvements in armaments and weapons of precision which have resulted from the progress of modern science, a charge which in the nature of things too must ever go on increasing, and which will always add very greatly to our financial difficulties. All that I can promise to do is to use every effort to keep down military expenditure consistently with the efficiency of the army for war. The most searching enquiries are in progress into all causes of increase, and will be pushed home. A system of control which we have lately introduced will enable the Military Member of Your Excellency's Council to keep his finger on the pulse of military expenditure constantly in a way that I think it had been impossible to do before. Every rise of that pulse will be marked, and such remedies as are possible will be applied. But, I repeat, our Army, British and Native, is an army of volunteers, and I could conceive no more dangerous or foolish course than to push economy to the point of either diminishing efficiency for war, or creating discontent in the army."

His Honour THE LIEUTENANT-GOVERNOR said :—" I have a few remarks to submit to Your Excellency's Council on the subject of the so-called Famine Insurance Fund. I do not propose to join the noble army of those who have so often and so unsuccessfully attempted to explain away the misconceptions which have grown up round this unfortunate phrase, or to enlighten the invincible ignorance which prevails on the subject in the minds of the public. I call it an unfortunate phrase because a surplus and an insurance fund are things totally different in character. An insurance fund must be kept up regularly or the insurance is vitiated: a surplus is a result which you may aim at but which circumstances beyond your control may make it, as now, impossible for you to achieve. If this unfortunate phrase had not been in use it would have been unnecessary for my hon'ble friend the Finance Minister to say that he intended to suspend the Famine Grant; it would have been sufficient for him to say that, as he had a deficit, he had not got a surplus. But even here, in the purest region of official thought and language, a misconception is created by the use of this misleading term. The Hon'ble Finance Minister has told us that he has got a deficit of three crores to meet. But, when he says that, he does not mean what you or I should mean if we used that expression, nor what the public thinks he means. He has really only got a deficit of two crores, that is to say, his estimated expenditure exceeds his estimated receipts by two crores. But he would like to have a surplus of a crore and to spend it on reducing debt or on protective public works; and compared with that ideal position his revenue is too small by three crores.

" But, my Lord, my object in addressing the Council to-day is not to dispute about the use or meaning of words, but to ask the Council to consider the question, how this resolution to provide, if possible, an annual surplus of 1½ crores arose, and whether the conditions have altered so far that the necessity for such a provision has wholly or partially passed away.

" The original calculation of the amount of the so-called Famine Insurance Fund was made in this way. In the ten years preceding 1878 there had been two great famines, or rather one great famine—that of 1877—and one severe scarcity—that of 1874. In these two cases the expenditure on famine relief, including remissions of revenue, had been 16½ crores of rupees. But, assuming that this expenditure had been somewhat exceptional, the Government estimated that 15 crores might be taken as the amount that would ordinarily be spent on famine relief in ten years, and therefore they decided to provide a surplus of one-tenth of that sum, or 1½ crores, each year which should be spent either on reducing

debt or on protective railways, so that, when the next famine came upon us, it would cost less to meet it, because we should have an enlarged railway system by which to transport food, or, if we had to borrow, we should be in a better position to do so, and should not have increased the total volume of our debt.

"Nearly at the same time the Famine Commission approached the problem from a different direction. They held that the maximum number of persons to be relieved in the worst conceivable year was 2½ millions, and the cost of such relief, at Rs. 50 per head, was 12½ crores. Calculating from past experience, they estimated that the average number to be relieved in a series of years would amount to a little less than 250,000 persons, and the cost of such relief to 1¼ crores per annum. Their estimate, framed in 1880, was therefore a little lower than that framed by the Government of India in 1878, and the convergence of these two independent modes of calculation justified the belief that the amount which it was intended to provide as a surplus (1½ crores) was not likely to be exceeded as the average charge for famine relief over a series of years.

"Speaking in this Council in 1877, Sir John Strachey said:—

'Unless it should be proved hereafter by experience that the annual appropriation of a smaller sum from our revenue will give to the country the protection which it requires, we consider that the estimates of every year ought to make provision for religiously applying the sum I have mentioned (that is, 1½ crores,) to this sole purpose.'

"I venture to think that the time has come for enquiring whether the grounds on which this figure of 1½ crores was arrived at still remain unchanged. My hon'ble friend Mr. Playfair has led up to this enquiry by his question in the speech we have just heard, whether the Government of India is now prepared to say—and he presumed it is not—that an adequate network of subsidiary railways has been completed throughout the Empire, and that the precautions initiated for the protection of the people from the financial as well as from the material consequences of famine have been completed. I shall attempt to show that so large a sum is no longer required for the special purpose of providing against the expenditure likely to be incurred when a famine visits us, although it must always be desired that a surplus of this amount should exist and should be available for the development of the resources of the country.

"I begin by reminding the Council that the calculations made by the Famine Commission shewed that the provision of 20,000 miles of railway, nearly half of which had been completed at the time the Report was written, would suffice to ensure the means of sure and speedy transport of food into

every part of India that is liable to be afflicted with famine. The cost of constructing an additional length of 10,000 miles of railway was estimated by them at sixty crores of rupees. But they went on to say that 'it was probable that less than one-half of the length first named, or 5,000 miles, in addition to the existing lines, would go far to remove all future risk of serious difficulty in supplying food to any part of any district in the whole country.' The number of miles of railway open at the end of 1893-94 was 20,395; and though this includes some military lines on the frontier, and some others which only indirectly serve for the transport of food, it may safely be said that we have more than covered the minimum of 5,000 miles of additional lines demanded in the above quotation.

"The next point I wish to bring forward is that the Famine Commission drew up (page 172 of their Report, Part II,) a list of the railways which they thought specially requisite for the purpose of protecting the parts of India most exposed to famine. They specified in the Punjab, the tract north and north-west of Delhi irrigated by the Western Jumna Canal; in the North-Western Provinces, the province of Bundelkhand; in Bengal, the districts of North Bihar and Bhagalpur, and country to be traversed by the East Coast Railway from Calcutta to Cuttack and on to Madras through the Godavari and Kistna Deltas; in Madras, the Ceded Districts, which ought to be put in communication with the same deltas; in Mysore and the Bombay Dekkhan, certain projected lines connecting those districts with the existing railways and with the sea. The Council is probably aware that the whole of this programme, except the East Coast Railway, which is still in hand, has been carried out. We have constructed the Delhi-Umballa-Kalka line, the Rewari-Ferozpur line, the extensions of the Tirhut and Northern Bengal line, the Indian Midland, the Southern Mahratta system, and the Nellore and the Bezwada-Guntakul Railway, and we have made two important protective railways besides which the Famine Commission did not contemplate, the Dharmaveram-Mutupet, which runs through some of the poorest parts of the Madras Presidency, and the Bengal-Nagpur, which, though not penetrating a region likely to be visited by the famine, taps the rich districts of Chattisgarh and enables their food-stuffs to be carried to the relief of distress in other parts of India. The total mileage of these lines is 4,896 miles, and the East Coast, which is unfinished, if carried out to Madras and to Calcutta, will add about 1,070 miles to the number. We have thus in these fifteen years carried out almost all the schemes which the Famine Commission held to be necessary for the protection of the country against famine, and two useful schemes besides, and it is a reasonable thing for us now to reckon up

the results and to consider what remains to be done. Have any defects been discovered in the scheme of the Famine Commission? Is there any tract which they did not know of but which we now know to be specially liable to famine and unprotected against it? I am not aware of any. Speaking with such authority as attaches to me as Secretary to that Commission and with such knowledge as I have gathered in the various offices I have filled since that time, I do not hesitate to say that the only considerable spot in India on which I could now lay my finger as both liable to severe famine and insufficiently protected against it is Orissa. When the East Coast Railway is finished—and I trust that whatever constructive work is starved in this black year my hon'ble friend the Minister for Public Works will not allow this work to be starved—I believe that the work of railway extension with the special object of famine protection will, as far as human foresight can guide us, be completed.

"It seems obvious then, that the results being attained, the efforts for achieving those results may cease or be relaxed. Insurance becomes less costly as the danger from fire decreases. Our house was of thatch. We have rebuilt it in brick and iron. Surely we no longer need the apparatus of water-buckets and the machinery for pumping and the staff for applying the hose which we were obliged to provide before.

"It may be said 'this is mere *à priori* argument: you think you have provided a machinery for putting down famine, but wait till it is tried. You have fortunately been spared any such visitation as that of 1877: who can tell that if such a calamity should recur you may not have to pour out money again like water to save life.' To this I answer that we have been tried and our machinery has been found to work and act successfully. We have certainly not experienced such a famine as that of 1877-78, or of 1868-69, and may we long be spared such visitations; but, as far as I can judge, we have experienced droughts and climatic conditions similar to those which produced the famines of 1861 and 1874, but we have escaped from experiencing the same effects. The Bengal famine of 1874 was one of those the expenditure on which (about six crores) was included by Sir John Strachey in framing the estimate of fifteen crores as the cost of famine relief in a ten-year period, and I think it is not too much to say that the possibility of such a famine or such an outlay has been stamped out by the construction of the railway system north of the Ganges. In Behar within the last six years, in 1888 and 1891, there was a failure of rain equal or very nearly equal to that which occurred in 1873. My predecessor in 1889 and I myself in 1892 made preparations for a visitation

of famine, but we had to meet nothing worse than severe scarcity in a limited area. On both of these occasions, in place of the six or seven crores of 1874, we had to spend three or four lakhs of rupees. I say therefore that such a famine as that of 1874 is now impossible, and such an outlay as that will not be again required and need not be provided for. You can wipe six crores out of your bill of fifteen, and even then you will have provided amply, and more than amply, for the worst attacks that fortune can make upon you.

"No doubt the same experience has been shared by other parts of India: I believe that my hon'ble friend Mr. Lee-Warner will bear me out when I say that in the Kaladgi or Bijapur District of Bombay, where the famine of 1877 fell heaviest in that Presidency, there were two years, between 1880 and 1885, when there was an almost complete failure of rain and the blackest anticipations were indulged in. But the newly opened section of the Southern Mahratta line poured in such an ample supply of food that panic never got its head, prices were kept down, and, though the Bombay Government were on the watch and kept many lakhs of rupees in reserve in case of a demand, there was no necessity for any large famine expenditure.

"As a matter of fact, the accounts show that in the last thirteen years the direct expenditure on famine relief has only been Rx. 337,760, or less than 34 lakhs, or than three lakhs of rupees a year. The rest of the surplus has been spent, 5½ crores on protective railways, 5½ on reduction of debt, and 1¾ on irrigation works. If therefore the calculation which was made by Sir John Strachey in 1878 were now repeated, it is clear that the Government might be content to provide three lakhs of rupees instead of 1½ crores for expenditure on famine relief proper. If the calculation made by the Famine Commission were now re-made *de novo*, it would be necessary to ascertain the cost of the uncompleted part of the East Coast Railway and of any other railway projects which later experience has shewn to be requisite for the protection of exposed tracts, and to distribute that total amount over a certain number of years, as the provision which it is necessary to make against famine. To this must be added the amount hypothecated to meet the loss on the guarantee on the Indian Midland and Bengal-Nagpur Railways, as long as that loss continues, which I trust will not be many years more. But in any case I trust I have convinced the Council that there is good reason for thinking that it is no longer necessary to set apart so large a surplus as 1½ crores for the definite purpose of meeting the recurring expenditure which the occurrence of famines entail. It is of course always desirable to budget for a surplus, and the larger the better;

but my respectful advice to the Government of India now is that they should reconsider the amount which it is requisite to attempt to provide, and should in future frankly and fairly call it a surplus, and drop the phrase Famine Grant or Famine Insurance Fund altogether."

The Hon'ble MR. WESTLAND said:—"The remarks of Hon'ble Members with regard to myself have for the most part been expressions of sympathy with me in my financial distress, for which I assure the Council I feel very grateful; but the circumstance points to one special feature in the present position. It is this, that the Budget is not put forward by the Government of India as one that is satisfactory to itself; our programme pretends only to be the best that we can frame under the conditions on which we are this year compelled to work. I shall not, therefore, attempt to defend our position upon its merits; the mere fact that I have declared a deficit for the coming year is sufficient to show that the position is indefensible on its merits. The controversy upon this point hangs round the question of the cotton-duties, and that is at the present moment rather in a political than in a financial phase. Its financial aspect has been ably treated by my friend Sir Griffith Evans, who, to use a celebrated phrase, can speak from a position of greater freedom and less responsibility. Every word that he uttered in criticism of the general financial position displayed in the estimates I could easily accept as my own—it is a position of strain which can last only for a limited time, and which we have loyally accepted, for that limited time, under the circumstances already fully laid before the Council. But on this general question I abstain from entering on further discussion, for I could only repeat what I have said on an earlier occasion.

"I wish to say, before I pass from the general subject, how much I appreciate the efforts which were made by the heads of the great spending departments, General Brackenbury and Sir Charles Pritchard, to reduce their demands to the very lowest point. Had it not been for their assistance in this matter, I certainly would never have succeeded in producing in my estimates so low a deficit as only 30 lakhs of rupees.

"Before discussing the larger questions arising out of the debate, I propose to take up one or two smaller subjects to which the Hon'ble Mr. Playfair and other members have made reference. Mr. Playfair, with some justice, complained of the very short time allowed to the community of Calcutta to consider the Financial Statement before our taking up the final discussion. It is due to the misfortune, for which I am afraid I cannot accept re-

sponsibility, of Easter falling during the week that succeeded the presentation of the Estimates. The Estimates themselves are fixed by certain circumstances within a very narrow limit of time. Our practice is to have everything practically complete about March 10th, and then, before closing the figures, to wait for the reports of the receipts and outgoings of the month of February. These come to us, say, about March 12th to March 15th, and we proceed to make any final corrections in the Estimates which seem on the consideration of February's figures to be called for, close them about March 15th to 18th, so that they are ready, after the necessary examinations, for presentation to the Council about March 21st or 22nd. I mention this in order to shew that in the regular course of business we could not avoid presenting the Estimates just before the Easter holidays. The Hon'ble Member is aware that the curtailment to five days, of the week ordinarily allowed for consideration, was due to arrangements made for the convenience of certain non-official Members who would have been unable to attend on Thursday. I shall do my best to make better arrangements next year, as I shall certainly avoid any cause which would deprive the Government of the helpful criticism of the Bengal Chamber of Commerce.

"Mr. Playfair has asked me certain questions about opium cultivation, and the short crops of the last two years. In the first of these years the shortness of the crop was due to drought, which produced a small crop of high consistency, and in the second it was due to heavy rains, which produced a large maundage but of very low consistency. The causes were, therefore, in both cases climatic. The question of increasing the payment made to cultivators has been already under consideration, but it was impossible to take any definite steps while the whole question of opium in India was under examination by a Royal Commission. The fact is that for years our hands have, in the matter of opium administration, been very much hampered by the persistent calumniation and misrepresentation which we have suffered from an English Association of gentlemen, who think that the excellence of their motives is sufficient justification for the baselessness of their statements. We are very glad that the whole subject has, to their dismay, been made the subject of elaborate enquiry instead of a simple condemnation; and, though we do not in any way presume to anticipate the findings of the Royal Commission, we cannot conceive but that, after the evidence which has been made public during the last cold weather, the result will be to leave the Government of India more free to administer its Opium Department in the manner which it knows to be right and just to all interests concerned, without the perpetual presence of the feeling that every step it takes will be misunderstood and misrepresented in England.

"As regards the price of opium taken in our estimates, the Hon'ble Member is right in his supposition that we consider the price to be largely influenced by the fall of silver. China, as he is aware, is a country with a silver currency—a currency which cannot be protected from depreciation in the manner in which we have protected ours. Our opium fetches a certain number of dollars in China, and the Calcutta prices are determined by the China prices. The fall in the value of silver can at any rate have no immediate effect upon the dollar price in China, but it makes those dollars produce a smaller number of rupees in India. I cannot say if we can rely upon receiving, during 1894-95, the amount of opium revenue which we have taken in our estimates—it is notoriously one of the items in which our estimates are very uncertain. But I have at any rate taken a lower revenue than has ever yet been estimated, and I live in hope that it will be realized.

"My hon'ble friend asks me if I can justify the exchange rate of 14*d.* taken in the estimates. I admit I cannot do so with any confidence, but I ask him, in turn, what rate he would propose and how he would justify that rate. The whole question of exchange is at present in a state of flux, and the question what rate we should realize depends upon many circumstances. It depends more than anything upon the rate that will prevail during the next export season, and I do not know that any man in India can foretell that. Fourteen pence may prove too high, and, on the other hand, it may conceivably turn out too low. I think it is a fair and not too sanguine compromise between opposing considerations.

"I was pleased to hear that it was possible to hold the opinion that our accounts if properly made up would shew a surplus of some millions instead of the deficit I have deduced. But I am afraid that I cannot accept the view. The manner in which the accounts of India were made up till about 1884 was this. The sterling pounds of the English expenditure were added to the Rx. of the expenditure in India, and then to the total of the whole was added an item called 'Loss by Exchange,' which was the difference, as compared with two shillings, upon the actual remittances of Council Bills during the year. One result of this system was that, in any year in which the Secretary of State failed to obtain by his drawings the full amount of his expenditure, the result of the year's account was benefitted by his failure. While the rupee remained somewhere in the vicinity of a tenth of a pound, no great harm was done. Remittances sometimes fell short of, and sometimes exceeded, the expenditure of the year; but taking year's account with year's account

the result on the whole was fairly correct. But when the rupee began to sensibly fall away from this standard, the difference threatened to vitiate our accounts. I was Comptroller General at the time, and I urged upon the Government that the only way our accounts could be protected from serious inaccuracy was by taking the sterling expenditure to account at its actual equivalent in rupees, whether the amount was, or was not, obtained by actual remittances during the year. I may say that the inaccuracy to which I refer was, or rather would practically always have been, an inaccuracy in understatement of the expenditure. After some discussion in which the sole question was how to frame the accounts so as to express the facts with the greatest correctness, my proposals were accepted, and since then we have, in adding £ sterling to Rx., inserted the column which is headed 'Exchange.'

"The peculiarity of our accounts, as is well known, is that, while all our revenue is received in rupees, a large portion of our expenditure is in sterling namely, some 15½ million pounds. Now I hold that, to make your accounts correct, you are bound to set every pound of that expenditure against your revenue, as absorbing, say, 16 rupees of it. If you meet the 15½ million pounds by remittance, this is the result that actually takes place, and you have met your £ sterling liabilities out of your actual revenue. If you do not make the remittance, you will have to borrow money in sterling and pay sterling interest on it in future until you do discharge the liability by remittance; but, however you put it, you do not meet the sterling charges of the year, until you charge them off (or, in fact, until you have met them by actual remittance) at their full equivalent of R16 per £. That we separate the R16 into two columns, of which the first shews R10 and the second R6, is a matter of convenience; the essential point in the account keeping is that we bring in the whole R16, and, if it were not for this fact, the first column where the R10 is shown would not have any business in our accounts at all. I cannot conceive the correctness of a system by which, during a year like the last, in which our remittances fell short by £8,000,000, we would become entitled, by reason of that failure, to bring Rx. 5,000,000 to credit of revenue; and I am quite sure that no book-keeping arguments would for a moment be allowed in justification of such a course. Mr. Playfair is perfectly correct in his description of the book-keeping entries by which the amounts are brought upon our books, but the technical answer to his argument is that the credit to deposit account by debit of the exchange that we have charged off is *not* closed to Profit and Loss, but is closed to Balance and held at credit to meet the charge upon the theoretically necessary eventual remittance which will discharge the

liability. But there are certain matters relating to the presentation of the Government accounts which cannot be discussed from the mere book-keeping point of view; and I am quite sure that in no mercantile accounts could £1 of expenditure be charged off as ₹10 on the mere ground that no remittance had been made to meet it.

"I pass on to the more general questions which have been raised during this debate; and the first of these is that relating to the Famine Grant.

"The questions involved in the so-called resumption of the Famine Grant have been several times explained in this Council. The very positive statements of Sir John Strachey and of Lord Lytton have repeatedly been brought forward, as if they interposed some insuperable obstacle in the way of the Government doing what seems to it, from all considerations, right and proper with its resources. I am free to admit to the full the argument that these statements—pledges if you like to call them so—bind the Government of India, in some special way, to recognise in its financial arrangements the necessity of providing for famine, even in a year in which famine does not occur. But that every other financial consideration has to be subordinated to this one necessity was never their meaning. Sir John Strachey himself at the very beginning foresaw that an absolute pledge of this kind was an impossibility. He said:—

'It is the firm intention of the present Government to apply the funds now to be provided for this special purpose strictly to the exclusive objects which they were designed to secure. In such matters, no doubt, Governments cannot fetter their successors, and nothing that we could now say or do would prevent the application of this fund to other purposes. Without thinking of a future far removed from us, events might, of course, happen which would render it impracticable even for us, who have designed these measures, to maintain our present resolutions.

'So far, however, as we can now speak for the future, the Government of India intends to keep this million and a half as an insurance against famine alone. In saying this, I should explain that we do not contemplate the constitution of any separate statutory fund, as such a course would be attended with many useless and inconvenient complications, without giving any real security.'

"Had it not been for the ample explanation already laid before the Council by Sir Charles Elliott, I would have gone on to quote the statements made by Sir Auckland Colvin on the subject of the alleged permanent obligation of the famine grant; but I shall content myself with referring to the discussions in this Council in March, 1886, and to the explanations given in the Financial Statement of March, 1887 (paragraph 71, etc.). I think it is a little unfair to the Government that the question of the resumption of the grant should, at this stage,

be attacked as if it were something altogether new and unheard of. As a matter of fact I am only repeating a policy adopted, and fully justified, by Sir Auckland Colvin, under similar circumstances, and I should not be called upon again to reply to arguments which he fully disposed of at the time, and which are now again brought forward as if no reply or explanation had ever been given with respect to them.

"But, first, as regards the redeeming of the so-called pledge of Sir John Strachey and of Lord Lytton, I find from past accounts that during the thirteen years, beginning 1881-82, the following moneys have been appropriated out of this fund :—

	Rx.
Actual Famine Relief	294,000
Protective Railways	5,483,000
Irrigation	1,732,000
Bengal-Nagpur and Midland Railways	2,772,000
Reduction of Debt, direct or indirect	5,327,000
TOTAL	15,609,000

"Considering in what financial straits the Government of India has been during part of this period, I think these figures show a fair redemption of the pledge given that a surplus revenue should be raised and spent upon Famine Relief and Insurance.

"In fact, I think Sir John Strachey himself would admit that the time had now come to consider whether, in our present state of preparedness for famine, the old obligation still remained to us to find 1½ crores a year upon policy and insurance. His own statement, in continuation of the quotation I have already made, was—

'Unless, then, it should be proved hereafter by experience that the annual appropriation of a smaller sum from our revenues will give to the country the protection which it requires, we consider that the estimates of every year ought to make provision for religiously applying the sum I have mentioned to this sole purpose.'

"Sir Charles Elliott has already dealt with this aspect of the case with an authority to which no other officer of Government can lay claim. For his experience as Secretary of the Famine Commission in laying the foundation of the policy, and afterwards as Public Works Member of the Government of India in helping to carry it out, invest his opinion on the subject with a special value.

"But that the actual question of the suspension of the grant is in the present year more a question of book-keeping than of anything else will be apparent from what I said in my Financial Statement. If we had maintained the grant upon our accounts, we would spend upon the East Coast Railway the amount of 110 lakhs which is to remain uncharged during 1894-95. Although I am charged with having resumed, and in some way appropriated, this amount, I have, as a matter of fact, arranged that 76 lakhs shall nevertheless be spent upon this very railway, though charged to another head. I am, in short, not stopping the actual outlay of the money, for, with the exception of 34 lakhs of rupees, the whole of the 150 lakhs supposed to form the Famine Grant will be expended during the year in exactly the same way as it would be if the grant were still charged off in our books.

"Now in all these discussions about resumption of the grant, one thing seems to me to be forgotten. It ought to be distinctly stated by our critics what their alternative is. There are only two possible alternatives; if you continue to charge off the grant, you must either declare a deficit of Rx. 110 lakhs in excess of my figure, or you must raise a further sum of Rx. 110 lakhs by taxation. We have given reasons why we consider this second course inadvisable for the present year, and, as regards the first, it is, except as regards the 34 lakhs by which we consider it advisable to reduce the expenditure, little more than a question of book-keeping. The declared, and the substantial, object of the Famine Grant policy was the maintenance of a sufficient surplus of revenue over expenditure to provide for certain charges. If you do not possess that surplus, and overpowering financial considerations prevent your taking measures to recover it by searching out new taxation, you are not a whit nearer carrying out the Famine Grant policy, when you write down in your accounts that you have spent a certain amount which you know you have not obtained by raising revenue to meet it.

"More than one reference has been made in the speeches of Hon'ble Members to the desirability of our employing in some fashion, to the advantage of the State, the large Silver Balances which at present lie in our Treasuries. We are urged to use them on the construction of Railways, or on the purchase —by which, I presume, is meant the discharge—of our Rupee paper.

"Now it must first of all be borne in mind that the main object of Indian Finance at present is the re-establishment of the Rupee; to that alone we look for our future salvation, for, if we succeed in this object, everything else is easy to us. The loss for a year or two of the benefit we might get from the utilisation of our excess silver balances (which by the way is

wrongly put at 84 lakhs, for we could obviously not part with more than than ten crores of the amount) is as nothing compared with the gain, both financial and commercial, which will accrue to us if the Rupee settles to a rate of 15*d.* or 16*d.*, and becomes independent (as I think it has already become) of the value of bullion. I therefore lay it down as an axiom, so far as present circumstances are concerned, that we should not use those balances so as to interfere with our currency policy. And I think it obvious that any measure which sets these balances free for commercial use—either by expending them, at a rapid rate, on Railways or by using them in the discharge of loan—is not only an interference of this kind, but is a measure whose direct effect will be to defeat the object of our currency legislation. We have already lost enough by being obliged to considerably increase sterling debt; the only gain which we can set against that loss is the fact that on this side of the sea the same circumstances have led to the temporary lock-up of some ten crores of rupees. I would have preferred, as I said before, that things had gone on in regular course, and the said ten crores issued in payment of Council Bills. But the commerce of the country would not have it so, and we must accept the position in which these commercial forces have landed us. I am aware that by issuing these moneys I might reduce the rate of interest from its present figure of 9 or 10 per cent. to perhaps 4 or 5. But unfortunately commerce has declared that a rate of 9 or 10 per cent. is necessary to induce merchants and Banks to supply themselves with funds by the regular and ordinary method of Council Bills. I would not consider myself justified in creating a stringency of money by the withdrawal of funds from the money market, and I have never attempted such a policy; but when, in the ordinary course of commercial dealings, and as a result of the action of commercial forces, this result shews itself, I accept the fact, and I do not attempt to resist the operation of these forces by flooding the market with my pent-up rupees. The only result would be that another failure of Council Bills would take place, and my rupees would all come back to me. We have realised during the last few months the fact that it is to the operation of commercial forces alone that we must look for the accomplishment of the objects of the Currency Legislation, and I must, if I look for success in the operation, allow free play to that particular force which has driven into my reserve treasuries ten crores of rupees for which I have no use. Any attempt to use them would certainly cost the State more by the fall in the value of the rupee than we could possibly get by investing them, in any way, in our own loans.

"My hon'ble friend Mr. Playfair has suggested that five crores of this balance might well be used in pushing forward the construction of Railways, and he

has contrasted our rate of progress in Railway construction unfavourably with that of the United States of America. Now, first of all, I wish to point out that the expenditure of money upon Railway construction, or at least its economical expenditure, does not depend merely upon our possessing the money to meet the charges. It is the result of elaborate arrangements that have to be made beforehand—plans, arrangement of work, settling of establishments, purchase and manufacture of material. Our Railway construction is therefore carefully planned beforehand for some years in advance, and, although minor modifications in these plans are possible, such an utter change in them as is involved in the sudden addition of five crores to our outlay is, otherwise than as a form of waste of money, impossible.

"I wish to point out that the stringent measures we have had to adopt with regard to our revenue account have not forced us into any very great diminution in the rate of progress of Railway construction. The figures I gave in my estimates will show that the total outlay on construction (including Protective Railways) is on the whole only reduced from Rx. 4,027,400 in 1893-94 to Rx. 3,450,000 in the coming year. And the comparison which my hon'ble friend has made between the rate of construction in India and the rate in the United States is, in more than one respect, unjust to India. It may be true that we do not reckon in our yearly construction as many hundreds of miles as the United States reckon thousands, but then, if you take the construction of Railways by the State, it must be remembered that the Government of the United States does not contribute a single mile to the construction in that country. We possess some 17,000 or 18,000 miles of railway in India, of which there is hardly a single mile that has not been constructed either by the State or under its guarantee. I do not think there is a single mile of the United States Railways which can in the same way be attributed to the direct outlay or direct financial assistance of the Government. In the matter of Railway construction by the State I feel sure that the Government of India can challenge comparison with the Government of any other country in the world. And I rather think that, in his quoted mileage, my hon'ble friend has restricted himself to direct construction by the State, and has omitted certain current construction by Companies under contract with the State.

"I must confess to a little surprise in finding the proposal put forward by one of the commercial Members of Your Excellency's Council that we should buy silver at its present low price, and coin it for issue at the appreciated value of the Rupee. It ought not to be necessary to point out that any such process

is in its nature a fraud upon the present holders of rupees. Every lakh of rupees profit which we make by such a transaction accrues to us by diminution in the value of all existing rupees—that is, by an operation of indirect plunder of the existing possessors. The analogy of copper coin is in no way in point: copper coin does not pretend to represent in its intrinsic value anything like its coinage value, and the latter is maintained only by our practically undertaking to issue to any holder of 64 pice a silver rupee in exchange for them. At present, our rupees are certainly, to use the technical language of economies, neither a token nor a coin. We want them to pass from the 'coin' state to the 'token' state, and they are at present in the transitional stage; but nothing is more certain than that, if we continue to coin them before they reach the token stage, they will never reach it at all.

"I may be permitted to quote in this connexion an extract from some instructions which I wrote a short time ago regarding the advice to be given to Native States about their currency. I said—

'If they adopt, to begin with, the policy of maintaining the existing par of exchange with British rupees, as most of them are now doing by closing their mints, they will give their coin the same appreciated value as the British rupee, and the temptation will always be present to the Durbar to make a handsome profit by buying silver and converting it into coin. The loss necessarily falls upon the holders of existing coin, which will be at once depreciated by such a measure, the profit of the Durbar being one that may be once realized, and then is exhausted. But I do not know if every Durbar that undertakes coinage will be able, if matters are left to themselves, and no systematic policy expressly adopted by the Native States, to withstand the temptation of practically plundering its subjects by abandoning the policy now advised, and in many cases apparently adopted, of maintaining a par of exchange with Government rupees.'

"I shall certainly refuse myself to fall into this temptation.

"Occasions such as the present are almost the only public opportunities which a Member of Your Lordship's Government has to reply to criticisms publicly made upon our action: I therefore make no excuse for asking Your Lordship's permission to refer shortly to some matters affecting my department, even though they have not been made the subject of criticism in this Chamber.

"I wish especially to refer to the kind of criticism which is not unfrequently directed against us in England.

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"My first reference is to a pamphlet published at the end of last year by a gentleman who may be called a professional financier, the statements in which have been quoted, on the authority, I presume, of the author's reputation, in the House of Commons; and I have seen them also quoted in this country. The author, after stating certain figures as belonging to the Indian Accounts of 1879-80, and comparing them with certain other figures of 1892-93, finds a difference of 22 crores of rupees as the increase of expenditure, excluding exchange, between the two years. He then says:—

'It seems difficult to believe that the Indian Government, which never says anything about the 22 crores of additional General Expenditure, should come to grief over a crore or two of further loss on exchange.'

"The explanation is simply that our critic has blundered in picking out his figures. The figure he took from the earlier year was the total of expenditure, excluding the Railway Revenue Account, and the figure he took from the later year was the total of expenditure including that Account. As the expenditure on this account in 1892-93 alone amounted to about 21 crores, it would itself be sufficient almost to account for the difference which our critic brings out, and which, it will be seen, only means that we were in 1892-93 the possessors of some thousands of miles of railway which very nearly paid their own charges, interest and all. Of course there have been other increases of expenditure between the two years, but they are concealed by reason of another mistake committed by the author in taking out the figures. He omitted to observe that the figures of the earlier year included nearly 5 crores of War Expenditure!

"I quote this as a specimen of the kind of thing which is seriously accepted in financial circles in London as criticism of Indian Finance.

"Let us pass to another case. Hon'ble Members may remember a recent telegram which Reuter for some mysterious reason thought it worth while to send out from London, which told us of an article in a leading London newspaper, bidding us in a vague and airy way to give up talking about cotton duties, and go in for reductions in all departments of viceregal expenditure. I have seen this quoted in one or two Indian newspapers with the very natural enquiry—what did the writer mean by 'viceregal' expenditure? I can explain the expression only in one way. Indian newspapers know something about Indian finance, and they know, therefore, that, of all the adjectives of which the English dictionary affords a choice, 'viceregal' is a most singularly inappro-

priate one to apply to Indian expenditure. The writer in England, I am afraid, used the expression simply because he did not know that 'something about Indian finance.'

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"I pass to another case, one of the London financial papers, which reached us by last mail, the *Statist* of February 24th. The writer says—

'Even at the present value of the rupee, the expenditure in India this year is estimated at 53 millions sterling; and, if we may use the word without offence, it is nonsense to tell us that no further reduction can be made in an expenditure of 53 millions sterling.'

"Now, the beauty of an argument like this is, that you can never escape its force. Let us assume, for the sake of argument (I would not admit it for any other reason), that by hook or by crook we could reduce the expenditure by the three odd millions. Back would come the old argument, 'it is nonsense to tell us that no further reduction could be made in an expenditure of 50 millions sterling.' And so on *da capo*. I must do this writer the justice to say that he admits he knows nothing of the subject, and is not prepared to suggest, out of the whole 53 millions, a single item which might be made the subject of the reduction. His words are—

'To suggest where retrenchment could be enforced, without having access to all the official information, would be ridiculous; but in our own minds we have not the slightest doubt that outlay could be cut down in many quarters.'

"Of course he has not access to *all* the official information, but the amount of official information to which he has access is quite sufficient to satisfy the craving of any ordinary mortal. Hon'ble Members will no doubt be interested to learn that the writer of this critique proceeds in his next sentence to solve in fifteen words the whole of the difficult problem of taxation in India. He says:—

'And as for the taxation, we are equally confident that that could be considerably increased.'

"Needless to say he does not give the slightest suggestion either as to method or as to direction of increase, but he is not the less confident in his conclusions. This is the criticism, it must be remembered, of a *financial* newspaper of high reputation, to which I admit I often turn with profit and advantage. Consistently enough, the whole object of the article from which I have been quoting is to urge that any acquaintance with Indian Finance is a disqualification for its administration.

"It is positively refreshing to turn from declamation of this sort to the intelligent criticism we receive in India. Although it is sometimes adverse, it at least has some reference to the facts.

"I would remark that there is not the slightest difficulty in carrying out the kind of reduction of expenditure which some of our English critics would have us enforce. I could cut down the expenditure in our Revenue Departments to-morrow—only the chances are that for every rupee of expenditure I save I shall lose five rupees of revenue. I allowed the other day about six lakhs for increases to our Customs establishments. I might have insisted upon the old establishments continuing the work, but I know I would have remonstrances from the merchants who found their business impeded while they danced attendance at the Customs Houses and waited till their turn came round. Even a payer of revenue may claim some consideration. I could cut down the number of Courts of Justice, but I know I would meet with remonstrances on behalf of the complainants who, having paid for the luxury of a civil suit, find more than the law's delays interposed between them and their object. I could cut down Railway expenditure, and would probably be reminded of my folly by a Railway accident within a few months. I could reduce expenditure upon repairs of public buildings, and I would probably find I had run up a heavy charge for depreciations and had greatly increased subsequent urgent demands. Many of our public offices are still housed in what are little better than hovels; I might have made them wait longer for decent accommodation. I might have reduced the amounts which the Military Department tell me ought to be spent in sanitary measures with reference to our troops; and I would possibly be reminded of the effect of it by the outbreak of one of those illnesses with which in India we are always warring. And so I may go through the list. The question of reducing expenditure in India is not that of putting your pen through the figures presented to you by responsible officers, and I am not prepared to manage the finances of India upon the principles of administration applied by a bull to a china shop.

"After remonstrating against these vague and general charges, I do not wish to pass in silence over the only representation we have received with reference to my recent review of Indian finance which pretends in any measure to go into detail. It is a letter from the Bombay Presidency Association, of which the Chairman is a Member of this Council, who is unfortunately unable to be in Calcutta for this debate. The letter has been published in the Bombay newspapers.

"Adverting to my statement that our present troubles were due only to the exchange difficulty, the letter says :—

'The fountain sources will be found elsewhere than in low silver. They must be easily traced to the appalling growth of military expenditure in all its ramifications during the past eight years—in the increased charges on army services, arms and ammunitions, stores, military roads, special defences, and strategic railways. The large growth, again, of the charges on account of civil salaries and establishments must be next held responsible. Upper Burma is a third cause which has grievously burdened the general revenues of the empire. And, lastly, the unjust compensation allowance to the Services.'

"The 'unjust' compensation to the Services I shall deal with separately.

"As regards Military Expenditure, I think there is some misapprehension of the argument I used on March 1st. The increase of Military Expenditure I admitted, but I pointed out that it had its origin before 1888. My argument was that that increase had been met by the fiscal steps we had recourse to in 1888, and that the new necessities that arose since 1888 were due to exchange and exchange alone. It did not arise, therefore, in immediate connexion with the discussion of our present position.

"The question of military expenditure has been so fully dealt with by my hon'ble colleague General Brackenbury that it would be superfluous for me to say anything. But the argument of the Association to whose criticism I am replying will be traced in the following paragraph of their letter :—

'The annual expenditure on the Army Services has been allowed, under a variety of pretexts, to mount up higher and higher, without any control whatever, not to say aught of the many extraordinary charges incurred on account of the Penjdeh affair, the pacification of Upper Burma, the many uncalled-for and bootless expeditions on the North-West frontier, and last, though not the least, the special defences, east and west, in pursuance of the so-called policy of "preparedness"—a policy of adventure and external aggression which is calculated to enlarge the already unwieldy boundaries of the empire and weaken its strength and stability.'

"I am afraid there is an irreconcileable difference of opinion between your Excellency's Government and the Association. If the latter seriously mean to describe the policy of 'preparedness' on the North-Western Frontier, which I admit has cost us very much on frontier railways, frontier roads and 'special defences,' as a policy of adventure, which has weakened the strength and stability of the Empire, I am afraid that no argument of mine will succeed in meeting the objections they raise to the expenditure involved.

"As regards Upper Burma, the burden of it has distinctly diminished. The expenditure of Upper Burma (excluding military occupation) has all along been

about 180 lakhs; its revenue has gradually risen from 76 lakhs to 120. There is certainly, in the burden of Upper Burma, no objection to be taken to my argument that all our difficulties since 1888 have been due to exchange and exchange only.

"I come to the Civil Expenditure, and here I would remind the Council how I addressed myself to the question on March 1st. I broke up the gross figures into a multitude of details and then analysed the nature and the cause of the increases; it seems to me that any reasonable discussion of the question must proceed upon these lines. If further explanations are wanted, or if it is desired to pass into greater detail, it can be done; but to abandon the detail altogether, and to go back to the gross figures, and quarrel with them as a total increase, does not in the least advance the discussion. Nor does the peculiar manner in which the Association have manipulated the gross figures in any way promote the explanation of the matter. Following the usual practice, I shewed that the increase was so much a year—say, upon any given figure, ten lakhs a year. The Association's letter pile up the ten lakhs additional expenditure in each of the eight years they review, and denounce the increase as an increase of eighty lakhs. I can only say that I have attempted to explain the ten lakhs a year, and I must ask them to believe that the same explanation applies to the total additional expenditure of eighty lakhs in eight years.

"It is a curious commentary upon the letter of the Bombay Association, that, while I was considering it, a Calcutta Association of exactly the same character (it is called the Bengal Provincial Conference) was holding its meeting. This occurred last Friday, and I quote here two of the Resolutions they adopted—they were the only ones which had any reference to State expenditure:—

'(*a*) That the administration of civil justice in these Provinces urgently requires amelioration in respect of (1) court-fees and process-fees levied upon litigants; (2) the number of judicial officers; (3) the qualifications for Civil Court amin; (4) the pay and prospects of the subordinate ministerial agency; (5) the encouragement of a resort to arbitration.'

'(*c*) That the Conference regrets that the Government should, for financial and other reasons, have found it impossible to give effect to some of the most important recommendations of the Police Committee, which have reference to the raising of the pay and the status of Sub-Inspectors and Inspectors of Police, and the Conference is of opinion that financial considerations should not be permitted to stand in the way of a much-needed reform, which has such an intimate bearing upon the administration of justice and the happiness of the people. The Conference accordingly recommends that the suggestions of the Police Committee be given effect to in their entirety.'

"On the general subject of economy in financial administration I do not think it is possible to put the question in more appropriate language than has been used to-day by Sir Griffith Evans, and his criticisms, coming as they do from a non-official gentleman who has long been familiar with public affairs, are a valuable support to a Government assailed on the one side by perpetual demands, not altogether avoidable, and on the other by wild criticisms such as I have quoted from the Home papers.

"It is very difficult for any one not actually engaged in administrative work to realize how constant and how pressing are the demands for the expenditure of money in India—expenditure which is on all hands admitted to be desirable, but which has continually to be refused for want of funds. The wants of India are so enormous that there is no limit to useful expenditure if we only had the funds for it. Every one is convinced that money is wanted and should be given for the particular object he has in view, and he is often quite right; but it is only those who sit at the centre where all these demands are focussed, who realize both how great the demands are and how constantly endeavour must be made to prevent them from sweeping away all the revenue we have. If economy is to be measured by the number of proposals for expenditure that are rejected on their way to the final sanctioning authority, or that are rejected by that sanctioning authority, the Government of India can assuredly claim a magnificent record.

"It is easy enough to attack big figures, and to say that because these figures are big, therefore it must be possible to reduce them. But, unfortunately, the big figures are composed of a number of little ones, and, if reductions or economies have in actual practice to be carried out, it is not by mere alterations in the big figures but by actual measures adopted with respect to the little ones. And in the same way the expenditure is to be defended, not by merely taking up a big figure and making some general statement with respect to it, but by explaining and defending the details which build up the totals. This process of explanation and defence is continually going on, especially in connection with the preparation of the annual estimates. And it is by an examination of these processes—which I admit would be a very tedious business to any one not engaged in it as a matter of duty—that assurance can be given of economical management. I entirely deny that, in a country like India, the mere fact of the total of one year being bigger than that of an earlier year affords the slightest presumption of the absence of economy. Our general answer to criticisms of the kind is that we do not and cannot admit the premiss from which they too

often start, that in a rapidly progressing country like India it is possible to go on from year to year without increasing the figures of expenditure.

"In illustration of what I have just stated as to the manner in which proposals for expenditure continually press upon us, it is legitimate to refer to the questions which from time to time have been put at this Council to the Members of Your Excellency's Government. At our first meeting I think Mr. Buckingham suggested that additional allowances should be given to officers serving in Assam. At a subsequent meeting the Hon'ble Mr. Chitnavis suggested that additional grants might be given to educational institutions in the Central Provinces. Again, the Maharaja of Ajudhia suggested that the salaries of the Provincial Services in the North-Western Provinces might be increased. Or take the case of the Native gettlemen interested in politics who met at Christmas at Lahore to show us how we ought to govern India. I have carefully read the first dozen of their resolutions, and I find they contain nine distinct proposals, some of them very large ones, for increase of expenditure. That is the contribution of their united wisdom to the solution of the present financial difficulties, and yet it is not the whole of it; the same twelve resolutions contain also four proposals for sweeping reductions of revenue. I of course entirely accept the fact that, when India comes to be ruled on Congress principles, you will always be able to create the means to meet additional expenditure by going in for large reduction of revenues; but your Excellency's Government have at present to administer India under sublunary conditions, and therefore, having to meet a large new expenditure on account of exchange, they have been unfortunately obliged to lay before the Legislative Council proposals for increase of revenue, instead of merely saying that they have made up their minds to give up the revenue the Government already possesses. Although our remedial measures are so different in character, I think I am entitled to quote our critics in support of the view that there are many directions in which the Government might, with advantage to the country, increase the expenditure even above its present limits.

"But here I wish to say a word about one special item of increasing expenditure which comes into our accounts for 1893-94, and which I alluded to in my speech of March 1st—namely, the exchange compensation allowance. I mentioned then in what way it was immediately connected with the general question of the measures taken during the year, with reference to the exchange difficulty, desiring rather to explain why it had come upon us in the hour of our difficulty, than trying to justify it upon its own merits. To this last task I wish, as the question has been raised in public, to address myself now.

"I am glad to find that the Hon'ble Members of your Excellency's Council have taken a much broader view of the question than has been taken by some of our public critics, especially in the Native Press. The remarks that I have to make would not be necessary if the attack on these allowances had been made in the enlightened spirit which distinguishes our critics within this Chamber. But, in view of what has been said outside it, I think it my duty to make use of this occasion to explain pretty fully a policy which, perforce, occupies a somewhat conspicuous position in my Financial Statement.

"It has for a very long time been foreseen by the Government that measures would have to be taken to make up to its European officers some portion of the practical diminution of salary which the fall in exchange has brought upon them. The administration in India must be European in character, and the principal posts in it must be filled by Europeans; that is a mere necessity of the position. The salaries attached to these European appointments are practically the same, measured in rupees, as they were a quarter of a century ago. Lieutenant-Governors, Commissioners, Judges and Collectors, although their duties are now far more important and far more laborious, draw all over India practically the same rupee salaries as they did when the rupee was worth nearly twice as much as its present value. The same may be said of the Military Services; the pay of the officers of the army was fixed long ago, when the rupee was over two shillings; it is the same number of rupees now, when the rupee is 1*s.* 2*d.*; but the military part of the question has been amply dealt with by the Hon'ble the Military Member.

"It is a necessity of European life in India that the European officer must bear a large amount of sterling expenditure. He cannot separate himself from Europe, and, if he could, it is not desirable in the interests of Indian administration that he should. The European portion of the administrative services is, as matters stand, extremely limited, and its European quality must be maintained. Even if you could get officers to quit for ever their connection with Europe, and make India their permanent home, these would not be the kind of men who could rule the India that England has created. You must therefore accept the position that there is a portion of your Services whose salaries are, for the purposes of their necessary expenditure, partly at least to be reckoned in sterling, both as regards the conditions with reference to which they were originally fixed, and with regard to the expectations of the officers themselves.

"I do not know that I can express myself on this point better than by using the words employed at a recent public meeting in Calcutta by a gentleman whose opinions on commercial matters always carry great authority—

'We require for our Indian Services the very best men that are available, and, unless we pay sufficient salaries to attract such men, we will deservedly suffer for our false economy. It is true that in the interest of the tax-payer we must be guided by the laws of supply and demand. Salaries should be no higher than may be necessary to secure the high standard of character and ability which are indispensable. I will add that I think our public servants are entitled to treatment generous beyond the strict interpretation of their contracts. The man who has been induced to spend many years of his life in India with certain prospects cannot fairly be told that if he does not like the service he can leave it. It is no longer open for him to change his career, and while we should engage new men on commercial principles our old servants are entitled to generous treatment. It will be said that by pressing these sentiments upon Government we will be increasing their embarrassment by suggesting additional expenditure. I care not for this. We must discharge the obligations of a great country, whatever be the difficulty of ways and means'.

"Whether the present measure of exchange compensation is generous or not I shall not discuss. I am afraid that many of the recipients of it think that the permission to remit half their salaries to England at 1*s.* 6*d.* is poor compensation for the loss of the ability to remit the whole of it at 1*s.* 10*d.* or 1*s.* 11*d.* I can only say that the present measure of compensation is certainly all we can afford. It is a question, even, whether the Government were not too tardy in admitting it. It was sanctioned only after Government had found that the services were not only suffering in efficiency by feelings of disappointment and distrust of the future, but that they were actually being obliged, by financial pressure in their domestic concerns, to give up the attempt to maintain that amount of independence of personal position which in India is almost necessary for the exercise of personal influence. It is a serious disadvantage from a merely administrative point of view that the representatives of the Government should appear before the public as living on straitened means, and that was the condition which in many cases had been actually reached.

"The letter of the Bombay Association from which I have already quoted boldly meets the difficulty by asserting that the cost of living in England has decreased. I presume they mean, though they do not say it, that it has decreased *pari passu* with the gold value of the rupee, as otherwise their argument would be irrelevant. They quote statistics to shew that the price of a cwt. of wheat has in ten years fallen 30 per cent., the price of a cwt. of bacon 23 per cent., of a gross of buttons 20 per cent., of a dozen pair boots and shoes

26 per cent., and so on. I can only ask the Association—which is mostly, if not entirely, composed of Native gentlemen—to accept my assurance that these things have very little to do with the cost of living in England, and that ample evidence could be produced, if it were necessary, to shew that, even as measured in gold, the general cost and standard of living in England has not diminished of recent years.

"It is not upon us only that this charge for compensation has fallen, or by us only that it has been recognized. The Ceylon Government long ago admitted it to its officers. The Herschell Committee noted that some European employers had felt themselves bound to make to the Europeans in their service an allowance of the kind. My hon'ble friend Dr. Rashbehary Ghose intimates some scepticism on this point, and says he has not been able to find the cases to which the Herschell Committee referred. Probably he has not looked for them in the right place. The conclusions of the Committee were based upon evidence recorded by it, which will be found attached to its report; it is in that evidence that the particular cases referred to are most likely to be found. Again, within the last few days I find the following in the editorial columns of the *Times of India* :—

Railway Employés and Exchange Compensation.

'We are enabled to-day to make an announcement which will be received with great satisfaction by European railway employés in India, and by the public generally as a fair settlement of a fair claim. One of the leading railway companies in India are, with the sanction of Government, about to give orders for the payment of exchange compensation allowances to their European employés. * * * There was never any reason to doubt, after the distinct promises which we quoted the other day from the Chairman of two of the leading lines in India, and after the Secretary of State's recognition of the principle involved, that justice would be done to a class of men who are serving the public so well. Private employers have in some instances been more prompt and more bountiful in acknowledging similar claims; but that is a point which need not be pressed, except so far as it may help to show that the companies and the Government have not been more free with the money of the shareholders and the public than the strict equities of the case warrant them in being.'

"The Hon'ble Member to whom I last referred has also attempted to show by reference to Colonial comparisons that the salaries of the European Administrative Service are already high enough. I know something about Colonies and Colonial work, and can easily test the value of this comparison. Take the Colony of New Zealand: it contains 600,000 inhabitants—about half the population of an Indian district—and it has a Governor on £5,000, a Ministry, two Houses of Parliament (of which all the Members draw salaries), and any

number of Heads of Departments. Take Tasmania, a Colony of 160,000 inhabitants—one-fifth of the population of Calcutta: it has the same paraphernalia of administration, except that its Governor's salary is only £3,500. Take Ceylon, with its Governor, its Legislative Council, its Secretary and Treasurer, Attorney-General, Chief Justice and Justices: if it were made over to India, we would convert it into two districts of the Madras Presidency, and administer it with a couple of Collectors, with the usual district staffs. If you compare Colonial salaries with Indian salaries, you must remember that the whole business of Colonial administration is on a much smaller scale than Indian, and you must make the comparison not between functions which appear to correspond with each other in name, but between officers who exercise duties of something like comparative responsibility. You pay your Indian Viceroy, if His Excellency will pardon my alluding to a personal matter, a salary of £15,000 or £16,000 for ruling a population of 300 millions and administering a public revenue of, say, 53 millions sterling. I doubt if all the Colonies put together would shew a much bigger revenue, or in fact if they would shew as much, and I am sure that they would shew only a small fraction of the population.

"I admit that I am not surprised to see strong objection raised to the allowance on the ground of its differentiating between two classes of officers. I can only say that the difference exists in fact, and I do not see why it is unjust to recognize it in our arrangements. It is easy for those who dwell or who serve Government in their own country, who are exempt from all the hardships imposed upon the European servants of the Government, by the fact of their residence in India, to denounce the compensation given for those hardships. 'They jest at scars, who never felt the wound.' Formerly, it was said, and said truly, that the liberal scale of salary paid to the European services was the compensation in question; but, when by the automatic failure of that scale it ceases to be compensatory, I do not see on what principle of justice you can point to the letter of your contract to say that service on the old terms must be continued, when the compensations for it are diminished. I have not furnished myself with statistics on the subject, but I have been long enough acquainted with the work of the Financial Department to be able to say that there are not many of the Departments of Government service, officered by natives of India, which have not during the last quarter of a century had their scales of salary enhanced, and their general position, in a pecuniary sense, improved. Whether it is because the rupee is now less valuable, or because we require a better class of men for our work than before, or whether, as is more likely, both these

causes have operated, the fact remains that in nearly every department there has been a gradual increase of the standard of salary.

"I have examined by way of test the Civil List of Bengal for 1867, and compared it with that of 1894, so far as regards the subordinate services. In 1867 I find that Deputy Magistrates began at the grade of ₹200, one-third of the whole number being in this grade; and they might rise to ₹700. In 1894, the lowest grade is ₹250, and it contains only one-fifth of the whole number, while the highest grade is ₹800. In 1867 in the Subordinate Judicial Service, 188 officers drew ₹150, ₹200, and ₹250, and 26 drew higher salaries of ₹400 and ₹600. In 1894 they begin with ₹250 (excluding a probationary class on ₹200, none of whom have yet two years' standing), and they go on through grades of ₹300, ₹400, ₹600, ₹800 and ₹1,000. The salaries of the Subordinate Educational Service I cannot compare. In 1867 the salaries were too small to be taken cognizance of by the official Civil List, but in 1894 they begin with ₹150 and they rise to ₹500.

"I have not a doubt that if I were to examine the lists of other provinces I would find the same facts; but I quote these merely to show that I am not talking without book. At one of the recent meetings of the Council my hon'ble friend Sir Antony MacDonnell had occasion to refer to an increase of salary given only the other day to the Provincial Service of the North-Western Provinces. And I have referred to-day to cases in which the very persons who raise objections to the enhancement of the rupee salaries of the higher services are urging the claims of the subordinate ones to have their salaries increased.

"It is only when you come to the higher-paid services, the men whose work and whose responsibility have been to the largest degree added to by the changes of a quarter of a century, that you find that the salaries have remained practically stationary during the whole time, until the Government has at last been obliged to extend to them also a share, which seems by statistical comparison to be only a small share, in the increase which has gradually, and by a more imperceptible process, been given to the lower-paid.

"And in fact, in the attacks that have in some quarters been made upon this compensation allowance, we are to some extent suffering the consequence of our own tardy recognition of its necessity. Had we interfered at the time when the Rupee was worth 18 pence, with a declaration that the loss by exchange, of which many of our officers were even then complaining, would after

that point be made up for by some such measure as that adopted in August last, its fairness would possibly not have been impeached. It would have been recognized that we were only providing, in a moderate and equitable way, against the inevitable deterioration of such of our administrative services as are recruited from England, if we permitted the salaries we offered to be stated to the candidates we require at their sterling equivalent. It is because we have so long put off a measure which has been so long pressed upon us, that we lay ourselves open to attack on the ground of our having added, at a single stroke, 63 lakhs to our expenditure. Had we met as it arose the demand which we have now admitted, we would have had to pay some 10 lakhs on this account in 1886-87, 22 in 1887-88, 28 in 1888-89, and so on. And if the demand is just and proper in itself, as I hold it to be, it is not the more open to attack because, being so long postponed, and at length, through stress of circumstances, at last recognized, it has come upon our accounts as a sudden and new item of 63 lakhs.

"I have not a doubt that we shall receive full value for the concessions we have given. India imposes upon her public officers—and especially upon her European officers—a far higher standard of work than is accepted as sufficient in any other country—a standard of work which it would be perfectly impossible to maintain, apart from the conditions in which Europeans live in India. They divide their lives between longer periods of work in India and shorter periods of rest in Europe, and they look forward to retirement from active service, if they live, at a comparatively early age. Unless there was this sharp-drawn distinction between periods of work and periods of rest, you would never find your European officers willing to live in that perpetual atmosphere of work which in this country surrounds them. In short, if you want to get your work done without immensely increasing your present staff, you must accept the condition that the European official must not only live free from the actual discomfort of pecuniary cares, but after such fashion that he may, during his working life, have a margin to put aside for his periods of rest. This I say is the peculiarity of Indian official life, and, if the State wishes to benefit by the acceptance on the part of its officers of a standard of work far in excess of anything required or expected by other Governments, it must accept on its part the necessity of maintaining, in the allowances it makes to its officers, something approaching that standard of living with reference to which the salaries were originally fixed, and with reference to which the present high standard of work and of efficiency has been established.

"The concession that has already been granted is a very limited one, but it is all we can afford. The orders restrict it, for the reasons I have explained, to the classes of officers who may be said to represent the European Administration of India. The extent of the concession is, I admit, very much less than that of the personal hardships imposed by the fall of the rupee. No class of cases has given me more pain to deal with than the numerous applications I have received from officers who do not come within the terms of the order. I had little idea of the hardships of family life which many of our officers were suffering, until they had occasion to represent them to the Government in this connexion. I have seen, over and over again, cases in which officers of what we call the Indian Services of the Government, filled with the honourable desire to give to their wives and families the benefit of a European residence and education, and occasionally compelled to do so in the interests of their health, have straitened and pinched themselves to meet the ever-increasing demand that their determination had made upon their purses. These and like cases have brought home to me, in a manner with which I was not fully acquainted before, at what sacrifice of personal comfort, at what cost of personal feelings, and with what surrender of all that makes life enjoyable, the service of the Government of India is too often carried on. The compensation allowances have gone some way, as I hope, to remedy these evils, but I cannot conceal from myself that many unremedied hardships still remain behind.

"It is too much to hope that even after this explanation the somewhat ungenerous denunciations directed in some quarters against this increase of allowances will altogether cease. But I trust it will at least be seen that the arguments apply with equal force against the increases which I have described as taking place throughout the ranks of the services ordinarily filled, and honourably filled, by Natives of India. You cannot reasonably expect to get the work of the present day done, either by Natives or by Europeans, upon the salaries you offered twenty-five years ago; nor can I imagine anything more unjust, when you are obliged to raise the standard of your salaries, than to declare that the higher allowances are to apply only to new men; but that the officers who have served you for ten or twenty years, being now helplessly bound to your service, must be content to continue on the old scale. You have long given up the attempt to continue the old standard of salary in the case of the Native services with results entirely beneficial to the administration; I do not see why you should call it anything but bare justice when at length you are obliged to give it up also in the case of the higher paid European Services."

His Excellency THE PRESIDENT said :—"The time has now come when the discussion on the Budget Statement of the year must, so far as this Council is concerned, come to a close. It has on this occasion, I think, been broken up into two parts—for the introduction of the Tariff Bill forestalled, and I think necessarily forestalled, much that would otherwise have been appropriate to the proceedings of to-day. On the whole I do not think that the Government of India have any reason to be dissatisfied with the prolongation of the criticism to which they have been subjected.

"It has been acknowledged on all hands that our embarrassments have been serious, but financial embarrassments may proceed from various causes. I do not think that on this occasion there has been any disposition to think that our embarrassments have arisen from causes under our control. Criticisms there, no doubt, are—what system of administration of human affairs could expect to escape them?—of different branches of our policy, but I think it is admitted on the one hand that in regard to expenditure we have been, and are, exerting ourselves to keep our expenses within bounds. We are doing so subject, of course, to the stipulation that we must maintain in complete efficiency that system of Government which has been built up in India, on which our position in India depends, and which it is our duty to India to conserve. I quite agree with the views expressed by my hon'ble friend Sir Griffith Evans when he pointed out that the development of an Empire necessarily lays upon us fresh duties, and that fresh duties must often mean fresh or increased expenditure, but I think that General Brackenbury, in the statement which he has made with regard to military expenditure, has shown that the Government of India are willing to submit the details of their expenditure to the Council, and also, so far as is possible, to keep these increased demands within the limits of the funds which are at their disposal. On the other hand, without entering into any matters of controversy, I think that the general lines of the fiscal policy which was adopted last summer have been recognised as having been forced upon the Government of India, and as having been the best that circumstances permitted. The Secretary of State has announced in the most emphatic terms that the Mints will remain closed, and that announcement has, I believe, met with pretty general approval in this country.

"This, then, being the position, I think that the principle on which it was necessary to frame the Budget, now before the Council, becomes pretty clear. Some objection has been taken to its being a transitional Budget; but what else was open to us? A great operation like that of last summer cannot be

carried out in a day, though people talk sometimes as if it could be done by the stroke of a pen. Circumstances have tended to prolong somewhat the period of transition—circumstances, as I have said, beyond our control, and which depend to a large extent on the general conditions of trade, and also on schemes of legislation in other countries. I do not think, therefore, that the Government would have been justified in treating the position as one with the characteristics of permanency, or as one to be met at all events in full by permanent measures.

"Like other Members of the Council, I do not propose to renew the argument of the question whether in the import-duties, now re-imposed, the duties on cotton ought to have been included. The view taken by the Government of India has been expressed by the Financial Member, and will appear from the papers that will be laid before Parliament. All that I would say is that no object is advanced by undervaluing the strength of the opposition to it. For my part, I have no doubt whatever that Her Majesty's Government have considered this subject with the earnest wish to serve the true interests of India. They have thought it their duty not to consent to a duty on cotton goods at this moment, looking, as they are bound to do, to all the interests of the Empire of which India is a part. But they have told us that they will be ready, if necessary, to reconsider this question in the future. I venture to think that it is a mistake to suppose that no advance has been made. I believe that a body of opinion has been created, not only here but in England, which may very materially affect the decision to be arrived at in the future. In the discussion of this question I would urge that it is quite possible to lose nothing of the strength and determination to do what my hon'ble friend Sir Griffith Evans described as bringing pressure upon the Secretary of State, while looking matters fully in the face, and recognising that in practical politics we sometimes have to take into account opinions with which we do not agree, and to calculate with all calmness what the attainable balance may be. In this connection I was glad to hear the remarks of the Hon'ble Mr. Fazulbhai Vishram. I am not to be taken as indicating any view of the manner in which an arrangement may be arrived at, but as an illustration of the spirit of fairness which I should like to see used. I was glad to hear him, as a mill-owner, say that he was willing to consider the imposition of an excise-duty.

"I should like to add that I have a great sympathy with the dislike expressed by so many Members to its having been necessary to utilise for the purposes of the year sums which otherwise might have been available for the Famine grant, and also the Funds of Local Governments.

"I confess I think there is some confusion of thought in reference to the position of the Famine grant. I do not understand how it can be supposed possible for a Government to bind its successors in all time coming to spend its revenues in a certain manner, whatever their judgment of the respective claims upon them may be at the time, and, as a matter of fact, from the quotations which have been read it does not appear that the Government of that day wished to do so. His Honour the Lieutenant-Governor has given us some very interesting information showing the good purpose to which this grant has been put, and the extent to which the objects proposed by those who established the grant has been met.

"The Hon'ble Sir Griffith Evans spoke of a statement by Lord Northbrook, and described this grant as a percentage for repairs; but I think he will admit that a percentage for repairs is less on a well-constructed building. At the same time, for my part, I should be very sorry to take up the position that we had done our work in the construction of the class of works of this character. The Hon'ble Mr. Playfair has drawn an unfavourable comparison between India and America in the provision of railways. I do not know that the comparison would be complete without a consideration of the circumstances of the two countries, and especially, as the Hon'ble Mr. Westland has pointed out, of the extent to which private enterprise has influenced the matter. It would be highly desirable were we to see private enterprise giving more assistance to us in this country; but, as the case stands, I maintain that the Government has been right to regard the withdrawal of the Famine grant and the contributions from Local Governments as temporary parts of their Budget. At the same time I quite see that, in looking upon these parts of our Budget as temporary, we may, perhaps, be increasing our difficulties in the future. That is a disadvantage which we shall have to face when the time comes. It is a part of the position which it will be our duty to call the special attention of Her Majesty's Government to, if, or when, the time comes for us to ask for the reconsideration of our taxation which they have promised. In the meantime we must do our best with the means at our disposal."

The Council adjourned to Thursday, the 29th March, 1894.

S. HARVEY JAMES,
Secretary to the Govt. of India,
Legislative Department.

CALCUTTA;
The 2nd April, 1894.

Govt. of India Central Printing Office.—No. 635 L. D.—2-4-94.—320.—E. H.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Government House, Calcutta, on Thursday, the 29th March, 1894.

PRESENT:

His Excellency the Viceroy and Governor General of India, P.C., LL.D., G.M.S.I., G.M.I.E., *presiding*.
His Honour the Lieutenant-Governor of Bengal, K.C.S.I.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.
The Hon'ble J. Westland, C.S.I.
The Hon'ble Sir A. P. MacDonnell, K.C.S.I.
The Hon'ble Dr. Rashbehary Ghose.
The Hon'ble Sir G. H. P. Evans, K.C.I.E.
The Hon'ble Fazulbhai Vishram.
The Hon'ble C. C. Stevens.
The Hon'ble Gangadhar Rao Madhav Chitnavis.
The Hon'ble H. F. Clogstoun, C.S.I.
The Hon'ble W. Lee-Warner, C.S.I.
The Hon'ble P. Playfair.
The Hon'ble Mahárájá Partab Narayan Singh of Ajudhiá.

QUESTIONS AND ANSWERS.

The Hon'ble DR. RASHBEHARY GHOSE asked:—

(1) Whether the Chief Commissioner of Assam originally proposed an increase of land-revenue in revising the assessments in the Assam Valley Districts amounting on an average to nearly 70 per cent., and in a large number of cases to about 100 per cent.

(2) Whether the raiyats of the affected districts submitted memorials complaining of the excessive character of the increase, and whether the Chief Commissioner of Assam rejected those memorials and confirmed the rates originally fixed by him.

(3) Whether, after the rejection of those memorials and about four months before the final orders of the Government of India were passed, the Chief Commissioner did not reduce the increase in the rates to about 50 per cent. in a large number of cases and an average of about 40 per cent.

(4) Whether the Chief Commissioner did not pass orders for the realisation of the revenue according to the revised scale of rates while the appeals submitted to the Government of India against his orders were still pending.

(5) Whether the Chief Commissioner did not disallow the prayer of the raiyats for the postponement of the realisation of the increased revenue till the final orders of the Government of India were passed.

(6) Whether, as stated in the newspapers, a large number of Gossains or religious dignitaries of the Hindu religion and other respectable persons in the Kamrup District were confined in the lock-up at Rangia, and were, while so confined, employed on earthwork as a form of out-door labour.

(7) Whether the Government revenue in the lower districts of the Assam Valley is not now being realised by the agency of the respectable inhabitants of the place, who have been appointed special constables for the purpose of realising Government revenue.

(8) Whether the Government of India will be pleased to lay on the table papers showing (*a*) the cause or causes of the recent riots in the different places in Assam; (*b*) the places where such riots occurred, and the circumstances under which the police used arms for the purpose of suppressing the riots; (*c*) whether, as stated in the newspapers, ball cartridge was used by the police; (*d*) the number of people killed and wounded in each place; and (*e*) the places, if any, where the police fired upon the crowd without the authority of the Magistrate.

The Hon'ble SIR ANTONY MACDONNELL replied:—

"*First question.*—The answer is that in some cases the increase, as originally proposed, was 100 per cent., but on the average the increase was 53 per cent.

"*Second question.*—The answer is in the affirmative.

"*Third question.*—The answer is yes: the Chief Commissioner, having observed the operation of the rules, reduced the increase from an average of 53 per cent. to an average of 37 per cent.

1894.] [*Sir Antony MacDonnell; Dr. Rashbehary Ghose.*]

"*Fourth question.*—The answer is yes.

"*Fifth question.*—The answer is yes, the raiyats having been at the same time informed that full credit would be given to them for payments in excess of whatever rates might be finally fixed by the Government of India. I may add that the Government of India have reduced the increase from an average of 37 per cent. to an average of 32·7 per cent., and have limited the maximum enhancement on an individual holding to about 50 per cent. on the previous rental.

"*Sixth question.*—Certain prisoners, arrested for rioting and confined in the Rangia lock-up, have been employed in constructing temporary houses for themselves, the accommodation afforded by the lock-up being insufficient. But on this point further detailed enquiry will be made.

"*Seventh question.*—The answer is no. Special constables have been appointed under the Act to assist in preserving the peace, but not for collecting the revenue.

"*Eighth question.*—The Government of India have reported on the occurrences to the Secretary of State, and intend to publish the correspondence for general information after the despatch shall have reached the India Office—that is, within about a fortnight. It may, however, be said that the reductions ordered by the Government of India had been communicated to the people before the riot at Mangaldai, and that the police in firing on the mob acted in self-defence and in the dispersion of an illegal assembly."

The Hon'ble DR. RASHBEHARY GHOSE asked :—

Whether the attention of the Government of India has been drawn to the conflict of opinion between the Punjab Chief Court and the Allahabad High Court in their interpretation of the word "object" in section 295 of the Indian Penal Code, the former regarding it as wide enough to include *animate* objects, and the latter restricting it to *inanimate* objects; and whether, having regard to such conflict, the Government of India do not deem it expedient to set the question at rest by explicit legislation.

The Hon'ble SIR ANTONY MACDONNELL replied :—

"The answer to the first part of the question is yes. To the second part of the question, the Government has not as yet come to any decision on the subject."

[*The Mahárájá of Ajudhiá; Sir Antony MacDonnell; Gangadhar Rao Madhav Chitnavis.*] [29TH MARCH,

The Hon'ble MAHÁRÁJÁ PARTAB NARAYAN SINGH OF AJUDHIÁ asked :—

1. Is the Government aware of the feeling which prevails as regards the management of religious endowments throughout the country, and is it aware that the funds of these endowments are misapplied and diverted from their original purposes, with the result that throughout the country a strong feeling exists of dissatisfaction at the mismanagement of endowments ?

2. Will the Government of India instruct the Local Governments and Administrations to enquire into this matter and submit reports at an early date ?

The Hon'ble SIR ANTONY MACDONNELL replied :—

" To question 1 I would reply : The Government has no recent official information on the subject, but it has noticed in the public newspapers certain expressions of dissatisfaction in regard to it.

" To question 2 I would reply : The position of Government as regulated by Act XX of 1863 in relation to religious endowments and trusts is one of neutrality : but that Act enables persons interested in such trusts to sue the trustees for misfeasance ; and a further remedy for malversation in respect to such trust-funds is supplied by section 539 of the Civil Procedure Code.

" It is for the persons or public bodies interested in the religious endowments in question to submit, if they are dissatisfied with such remedy, such representations as they think fit, accompanied by the evidence which they consider to support them, to the Local Government in the first instance, and through that Government to the Government of India, if they desire an enquiry to be made with a view to a better remedy being applied than those provided by the enactments I have mentioned. In the absence of any such well-supported representations, the Government of India do not propose to direct Local Governments and Administrations to enquire into the matter."

The Hon'ble GANGADHAR RAO MADHAV CHITNAVIS asked :—

Is Government aware that under section 47 of the Central Provinces Land-revenue Act, 1881, sources of miscellaneous income cannot be taken into account in the assessment of land-revenue without the previous sanction of the Governor General in Council ?

1894.] [*Gangadhar Rao Madhav Chitnavis; Sir Antony MacDonnell.*]

Was such sanction applied for by the Chief Commissioner or granted by the Supreme Government in the settlement already made in the Raipur and Bilaspur districts?

Whether it is the fact that miscellaneous income of all sorts has been taken into account to form the basis of assessment in the above districts, and in other districts where the settlement proceedings are now in progress?

Is it not the fact that miscellaneous income in many villages is of a trifling and precarious character, and in many instances is generally appropriated by the villages and not by the proprietors?

Will the Government be pleased in view of the above facts to exempt such incomes of a trifling and precarious character from being taken into account in the matter of assessment?

The Hon'ble SIR ANTONY MACDONNELL replied:—

"The miscellaneous income referred to by the Hon'ble Member is the *julkur*, *bankur* and *phalkur* of the Bengal Revenue Regulations. To a share of this income the State has an incontestable right.

"The settlement procedure in force in the Central Provinces was based on the rules in force in the North-Western Provinces, one of which runs as follows:—

'In addition to the assessment on rentals, the Settlement-officer may take into consideration the average receipts from natural products, such as fruit, fish and other sayar, and add them to the total of the corrected rent-rolls.'

"I may further add that, in reporting for the sanction of the Government of India the special settlement procedure proposed for the Central Provinces, the Chief Commissioner submitted a pattern assessment statement which clearly exhibited siwai or sayar income among the assessable assets.

"The Government of India approved of the Chief Commissioner's proposals, subject to a restriction which does not touch the present questions.

"From this explanation it will be apparent that the answers to the Hon'ble Member's first, second and third questions are in the affirmative. To the first part of the fourth question the answer may also be in the affirmative, as doubtless there are estates without any sayar income, while that source of income is large in others. To the second part of the fourth question I can give no

[*Gangadhar Rao Madhav Chitnavis; Sir Antony MacDonnell; the Mahárájá of Durbhanga.*] [29TH MARCH,

answer, having no specific information on the point. To the fifth question the answer must be in the negative, because, while the share of the sayar income taken as revenue should never exceed a moderate proportion, it is not proper to exempt from assessment altogether without special reason any legitimate source of land-revenue. The proper course to follow in the cases, if any such there be, to which the question refers is to make sure that the right of the State is moderately and fairly assessed wherever siwai income exists and not otherwise."

The Hon'ble GANGADHAR RAO MADHAV CHITNAVIS asked:—

Whether the Government would enquire fully and consider whether in the interests of improvident raiyats it is not desirable that occupancy-raiyats' holdings should be included in the first proviso to section 266 of the Civil Procedure Code.

The Hon'ble SIR ANTONY MACDONNELL replied:—

"I understand the Hon'ble Member to ask the Government whether they will take into their consideration the question of imposing restrictions on the free transferability of raiyats' holdings. This is a most important matter on which various representations have reached the Government, but they are not at present in a position to state whether any action, and, if so, what action, may be suitably taken upon them."

The Hon'ble DR. RASHBEHARY GHOSE said that he had been requested, in the absence of the Hon'ble THE MAHÁRÁJÁ OF DURBHANGA, to put the questions standing in his name. The questions were—

1. Is it not a fact that the Municipality of Benares has assessed the Hindu temples of worship, whereas the Muhammadan mosques and Christian churches have not been so assessed?

2. Whether the Madras Proprietary Village Service Bill has received the sanction of His Excellency the Viceroy in Council?

3. Will the Government be pleased to publish the report of Mr. J. D. Rees, while Head Assistant Collector of Tinnevelly in 1879, on the increase of crimes in certain of the raiyatwari villages consequent on the changes in the immemorial village-system by the introduction of Village Service Act, which transferred the control of the village-watchmen from the inhabitants of the village to the direct control of Government.

1894.] [*Sir Antony MacDonnell; Sir Alexander Miller.*]

The Hon'ble SIR ANTONY MACDONNELL replied:—

"My Lord, these questions were submitted by the Hon'ble Mahárájá on the 26th instant. They are therefore not within time, and under the rules might have been excluded, but, with Your Lordship's permission, I will answer them.

"The answer to the first question is supplied by official papers submitted to Parliament last year. From one of those papers, a letter from the Government of the North-Western Provinces, I make the following quotation:—

'Under clause (*c*), section 34 (of the North-Western Provinces Municipal Act), the Municipal Board has exempted from the rate all buildings which are exclusively used for religious purposes. A Hindu temple, equally with a Muhammadan mosque or Christian church or chapel, is entitled to the benefit of this exemption if it is not used for any purpose other than that of religious worship. But in Benares, as elsewhere, the premises of Hindu temples are frequently occupied by Brahmans and others for residential purposes, and in such cases exemption is not claimable. The Gonesh temple at Benares has been assessed to the water-rate because it has been occupied by about twelve persons. The Anapurna temple includes a refectory where Brahmans are fed and lodged. The Municipal Board has therefore held that these two temples are liable to pay the water-rate. The majority of the Members of the Board are Hindus and are elected by the townspeople, and may therefore be assumed to be not unfriendly to the claims of their co-religionists.'

"This statement of fact then justifies an answer in the negative to the Hon'ble Member's question.

"The answer to the second question is still under consideration.

"The answer to the third question is in the negative, the matter being one which would be more suitably submitted for the consideration of His Excellency the Governor of Madras in Council."

PRESIDENCY SMALL CAUSE COURTS ACT, 1882, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER presented the Report of the Select Committee on the Bill to amend the Presidency Small Cause Courts Act, 1882. He said:—"I must take this opportunity of saying that under present arrangements the Bill will not be further proceeded with until a copy of the Report has been sent home and considered by the Secretary of State in Council."

[*Sir Antony MacDonnell.*] [29TH MARCH,

CODE OF CRIMINAL PROCEDURE, 1882, AMENDMENT BILL.

The Hon'ble SIR ANTONY MACDONNELL moved that the Report of the Select Committee on the Bill to amend the Code of Criminal Procedure, 1882, be taken into consideration. He said :—" My Lord, it will be seen from the Report that the Select Committee have modified the Bill in only one point. The last provision of the Bill, that enabling the Local Governments to appoint village-headmen for the purposes of the Act, stood originally in the shape of an *explanation*. His Honour the Lieutenant-Governor of Bengal in his comments on the Bill drew attention to that provision, and demurred to its taking the form of an *explanation*. The Select Committee have met His Honour's wishes by throwing the provision into a separate section, and have also accepted His Honour's suggestion that Local Governments should be enabled to make rules in order to control the operation of the section. We were unable to accept the only other change in the Bill advocated by His Honour, namely, the exclusion of the word 'occupiers' from section 45, because, under the law as it now stands, the responsibility of reporting offences rests on 'occupiers,' and it is not the object of the Government to diminish that responsibility.

"Generally speaking, the Bill has been favourably reported on by Local Governments, but Native political associations are not in favour of it. Some are more pronounced in their opposition than others, but the following passage which I quote from the opinion of the Bengal Zamindari Panchayat appears to me to express moderate Native opinion :—

'The amendments, the Committee of the Zamindari Panchayat believe, have suggested themselves to the Legislature by the frequent occurrence lately of riots in several parts of the country, and they are of opinion that the amendments proposed are sound in principle. Having regard, however, to the backward condition of education in the country and the general ignorance of the rural population, also to the nature of their ordinary pursuits, habits and manners, there is reason to fear that the provisions of the draft Bill are calculated to throw on the public responsibilities which they are incapable of discharging and which may prove meddlesome in the hands of the police, as well as cause considerable annoyance to the mass.'

"In this opinion, my Lord, the soundness of the principle on which the Bill is based is not challenged, but it is thought that, owing to the ignorance of the people, the Bill will remain inoperative; while it is feared that, owing to the character of the police, it may be used as an engine of oppression. If Your Lordship permits me, I will say a few words on each of these objections, beginning with the last.

1894.] [*Sir Antony MacDonnell.*]

"No one is more alive than I am to the defects in our police, nor, if I may be permitted to say so, has any one striven more earnestly for many years to correct them. The importance of this question of police reform is fully recognized, and already much has been done in all—I think I may say all—provinces to improve the prospects and *personnel* of the force. I do not think that the Native public realize the difficulties with which the Government have to contend in this matter. The Native public are urgent in their demands for a better police, but they forget that the morality of our police cannot be much better than the morality of the classes from which the police are drawn. Some improvement is no doubt effected by the checks and the discipline which we impose: but at bottom the morality of the police is the morality of the classes of Native society which furnish the police. Now, the Government of India cannot raise the standard of public morality by an order in the Gazette, and, if we are to postpone those precautions which the maintenance of law and order requires until the guardians of order shall have outgrown the frailties of their origin and environment, we shall have to wait a long time. As practical men, we must make the most of our instruments, doing, meanwhile, all we can to improve them. Besides, in the matter in hand, the police will have no arbitrary power of interference at all. Failure to comply with the injunctions of this Bill will not be a cognizable offence into which the police can enquire or with which the police can interfere of their own motion.

"The objection that the Bill, if passed into law, will be inoperative appeals to a different order of ideas—the prophetical order, if I may use the phrase. To an argument of this order all one can say is that he believes or does not believe. If he believes, there is nothing more to be said; if he doesn't believe, the matter is equally at an end. My own experience of prophecies, my Lord, whether as prophet or as disciple, has not been encouraging, and I am therefore loath to take prophecy for argument in the present matter. I am assured by responsible administrators that the law is defective on the points with which this Bill deals; I am assured by them that the proposals of this Bill are calculated to correct the defects, and my judgment confirms their assurances. In these circumstances we ought not to be deterred by forebodings of failure. If we do fail, we shall be no worse off than before.

"The Council will notice that the Calcutta High Court object to the inclusion of 'unlawful assembly' among the offences of which the public is by the Bill bound to give notice. It is hardly necessary for me to say that I entertain great respect for the opinion of the Hon'ble Judges of the Calcutta High

Court, and I should in this matter have hesitated to differ from them did I not believe that the Hon'ble Court have not looked at the matter from our standpoint. Had the object of the Government of India been punitive, had we wished to secure the punishment of malefactors, I should have been disposed to accept the views of the Hon'ble Judges; but our object has not been punitive, but preventive. We want to prevent the commission of the crime more than to punish the criminal. Take the case of riots. Riots begin with unlawful assemblies, and, if we maintain (with the High Court) the obligation to report the commission of a riot, we should, I submit, take the riot in its inchoate form and nip it in the bud. This we cannot do unless we make it incumbent on people to report the occurrence of an unlawful assembly.

"But it is urged that an unlawful assembly may be a most trivial matter, not calling for the submission of any information to the authorities. That no doubt often is the case, and then the Magistrate would not expect a report and would naturally ignore the omission to make it. But an unlawful assembly may also be of a different complexion, and may lead to very serious infringements of personal rights and individual liberty. Then it becomes a very serious matter indeed, and leads to developments of much greater moment than even a riot. It is in connexion with such cases that this Bill has been considered necessary, and I submit to the Council that the power which it confers should not be withheld from Local Governments.

"The last point I wish to notice is that clause (*f*) of the Bill (as it now stands, after the incorporation in the law of the provisions of Act III of 1894) is objected to as being too wide and as likely to lead to the harassment of the *public*. But I would point out now, as I was careful to point out in my speech introducing the Bill, that clause (*f*) of section 45 does not apply to the general public, but only to the village-officers enumerated in the first clause of the section—that is say, to village-headmen, village-watchmen, village-accountants, village-police-officers and the owners and occupiers of land with their agents. The obligation of giving information in response to the Magistrate's call under clause (*f*) touching matters affecting the preservation of the peace will, if this Bill becomes law, be imposed—not on the general public—but on those persons enumerated in the section who from their position in the village and means of information are specially able to give it, and who by order of the Magistrate, with the previous consent of Government, have been directed to give it. This is a very different thing from placing an obligation on the public generally.

1894.] [*Sir Antony MacDonnell; Dr. Rashbehary Ghose.*]

"His Honour the Lieutenant-Governor in his written comments on the Bill is doubtful whether breaches of the obligation imposed by clause (*f*) can be brought home to the delinquents, and thinks that the clause will have little or no practical effect. But His Honour will, I think, admit that, if the provisions of the clause do have the effect anticipated, the effect will be far-reaching and beneficial in the interests of order. A provision similar to this has worked very usefully in Burma, and, as I said before, if the provision does not work in India, we shall be no worse off than we were. I would submit to the Council that when we have on the one side responsible and experienced administrators coming up to us with the statement that the law is defective on this point, and that the defect will be probably cured by this provision, which has already been tried with advantage—and when, on the other side, the soundness of the principle is admitted, while only doubts as to its effectiveness are expressed,—then I would, I repeat, submit to the Council that as practical men we are bound to give the remedy a trial. If it turns out to be ineffectual, no harm will have been done, while we shall have gained experience on a matter in which we can only advance securely by cautiously feeling our way. With these remarks, my Lord, I would commend this Bill to the acceptance of the Council."

The Hon'ble DR. RASHBEHARY GHOSE said:—"I wish to say a few words on the motion before the Council. The Bill has met with considerable opposition from my countrymen, but the opposition, if I understand it rightly, is not to the principle of the Bill, but only to the way in which it is feared it may be worked by an unscrupulous police. Now, my Lord, I must say I am not altogether free from such misgivings, possibly because, as Sir Antony MacDonnell would say, I cannot rise superior to my environments. But two considerations have mainly influenced me in giving my support to the Bill. The first duty of the Government is to keep the peace, and when a spirit of lawlessness is abroad, if its responsible advisers think that special powers are needed to maintain the public peace, anybody who opposes such a measure must incur a very serious responsibility, which I, for my part, am not prepared to risk in the present instance. The second consideration is that section 44 of the present Act, the proposed addition to which has called forth the strongest opposition, imposes upon the public the duty of giving notice of a great many offences, but I have never heard that it has been oppressively used by the police. Sir Antony MacDonnell has warned us against prophesying till you know; but there is a well known saying that the best prophet of the future is the past. The history of section 44 is a blank, like the chapter on snakes in the famous History of

Iceland. There can be therefore no serious cause for alarm, at least in the minds of those who believe that by widening the responsibility of the public you would not add a new terror to section 44. The offence, moreover, is not a cognisable one. On these grounds, although fully appreciating the anxiety of my countrymen, I am prepared to give my support to the measure."

His Honour THE LIEUTENANT-GOVERNOR said:—"I did not intend to make any remarks on this Bill, as the objections which I had taken to it have been mentioned with perfect fairness by my hon'ble friend in his opening speech; they have been considered by the Select Committee, and some of the suggestions have carried weight; while others have not been thought of sufficient importance to necessitate any alterations in the terms of the Bill. I do not therefore wish to press them any further. My only reason for making a remark on the present occasion is that I wish to refer to an observation which fell from the Hon'ble Dr. Rashbehary Ghose, who seemed to imply, if I understood him rightly, that the Bill was likely to be altogether a dead-letter. I should be very sorry if this impression got abroad. I believe that the genesis of the Bill arose to a great extent out of the lamentable anti-cow-killing riots which occurred in various places up-country last year, and because it was found necessary to strengthen the hands of the Executive with a view to putting down any recurrence of cases of this kind. But I should very much regret if an impression got abroad that when cases of this kind occurred—if widespread and nefarious conspiracies should again be hatched over a large extent of country, inducing Hindus to attack Muhammadans in the exercise of their religious privileges or of their private rights—I should, I say, be sorry if any impression got abroad that the Government would not take advantage of the provisions created by this amended Bill to punish any headmen of villages, or any officers of any kind who could be proved to be cognisant of such conspiracies beforehand, and who had failed to report them to the Government whose business it is to put such riots down. Speaking for myself, I can safely say that my endeavour will be to work these sections effectively if any such unfortunate occurrences should again break out, and I sincerely trust that if the law does turn out to be a dead-letter, as the Hon'ble Dr. Rashbehary Ghose seems to think it will, it will be a dead-letter for this reason, that it will arise from fear of the consequences of the provisions of the Bill being given effect to, so that it will not be necessary to put the law into force because conspiracies will not be hatched or riot will not break out. I trust it will be distinctly understood that it is the intention of the Government to put this law into force, and, if occasion should unfortunately occur, that the Bill will not be allowed to remain a dead-letter."

1894.] [*Dr. Rashbehary Ghose; Sir Antony MacDonnell.*]

The Hon'ble DR. RASHBEHARY GHOSE, with the permission of His Excellency the President, said that his observations had been somewhat misunderstood by His Honour the Lieutenant-Governor of Bengal. His, the speaker's, remarks had been confined to section 44 only of the Code, the proposed amendment of which had caused widespread alarm, and he had wished only to draw attention to the fact that, although, even under the present law, the public are bound to give information of the commission of a variety of offences, it was not said by the critics of the present Bill that the law had been vexatiously or oppressively used by the police.

The Hon'ble SIR ANTONY MACDONNELL said:—"I think that I express the feeling of the Council when I say that we recognise the loyal and patriotic spirit which animated the remarks of the Hon'ble Dr. Rashbehary Ghose. He says that when responsible administrators think, with reference to events which have unhappily taken place, that it is desirable to strengthen the means of preserving order, that it becomes every patriotic and loyal subject of Her Majesty the Queen not to reject at once the demands which have been made by those administrators, but, where they are reasonable and do not exceed the bounds of wisdom, to agree to them. I consider that Dr. Ghose's remarks on this point are conceived in good spirit, and I wish to express my acknowledgments to him. I do not, however, take the same view that he does that this Bill will be inoperative. His argument on this point seems to be that because, in his opinion, section 44 of the Criminal Procedure Code has been inoperative, therefore this Bill must also fail. I am not prepared to admit that section 44 of the Criminal Procedure Code has been inoperative. I have no statistics at hand just now as to its working, but even if the general public have not given the information which the section requires, the information has, all the same, reached the authorities. It is not necessary that the public should give information to the police with regard to such offences as murder, attempted robbery, etc. The people who are injured in such cases come forward, and they take off the general public the responsibility of making these reports. The police are in possession of the reports regarding the serious offences in section 44, and it is only to enable them to get information with regard to other offences which individuals have not the same interest in reporting that we now desire to enlarge the bounds of the section.

"I have listened to my hon'ble friend the Lieutenant-Governor's remarks with satisfaction, inasmuch as they shew that this Bill will, in the interests of law and order, be put into operation, not oppressively, but in such a manner that

[*Sir Antony MacDonnell; Mr. Lee-Warner.*] [29TH MARCH, 1894.

information will reach the Executive in time to prevent such outrages as some of those which took place during the last year. It is unnecessary for me to say more, and I am glad to find that the Bill commends itself to the judgment of the Council."

The Motion was put and agreed to.

The Hon'ble SIR ANTONY MACDONNELL also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

DEKKHAN AGRICULTURISTS' RELIEF ACTS, 1879 TO 1886, AMENDMENT BILL.

The Hon'ble MR. LEE-WARNER moved for leave to introduce a Bill to amend the Dekkhan Agriculturists' Relief Acts, 1879 to 1886. He said:—"My Lord, the comparatively short Bill which I now ask leave to introduce represents the desire of the Government of Bombay to give effect to the recommendations made by a Commission of Enquiry appointed by the Government of India. If it does not go to the full length of the resolutions of that body, it goes further than the Local Government would of itself have proposed, and it continues the policy which the Government of Bombay has pursued since 1879 of courting full criticism and discussion upon an interesting experiment, and accepting amendments which will not interrupt the success of past legislation. Before explaining the amendments, I will briefly recall to mind the course of events leading up to the recent Commission which has now brought us to further legislation. On the 17th of July, 1879, the Hon'ble Mr. Hope introduced a Bill for amending the procedure of the Courts in certain classes of litigation in four districts in the Dekkhan, and relieving, so far as any Legislature can deal with a great agrarian and social problem, certain incidents of agricultural distress and discontent which had attracted prominent notice in that part of India. He catalogued his objects in these terms:—

'(1) Precautions against fraud by either debtor or creditor in their original transactions with each other; (2) interposition of friendly conciliation between disputants previous to litigation; (3) approximation of the Courts to the homes of the people; (4) some small simplification of procedure and diminution of the expense and technicalities arising

29TH MARCH, 1894.] [*Mr. Lee-Warner.*]

from legal practitioners; (5) equitable jurisdiction to reduce all exorbitant, fictitious and fraudulent claims; (6) finality of judicial decisions, subject to adequate safeguards; (7) prompt and unfailing enforcement, through the Collector when necessary, of all adjudicated claims of reasonable amount; (8) discharge of the debtor from such claims, or the balance of them, as after all reasonable enforcement for a long period could not be fully realised, except by demoralisation and life-long bondage.'

"The Bill as amended became law in October, and, in 1881, 1882 and 1886, the Act, XVII of 1879, was further amended by this Council.

"A healthy and most beneficial criticism of the Act was excited both in this Council and elsewhere—a criticism to which must be attributed the popularity which the Acts have on the whole enjoyed in the districts where they run, and in the surrounding territory. Some of the fears which then racked the minds of observant critics may be mentioned. It was feared that any attempt to place the peasant-debtor, weighted with ignorance and inherited debt, and his creditor, with his superior advantages of purse and intelligence, upon a fairer footing would produce injustice by intercepting some of the legitimate profits of the moneylender's trade. The exercise of a correctional power over contracts and improvident bargains seemed a novel and dangerous task, and it was anticipated that the moneylending class would soon discover methods of evading the law, partly by insisting on the actual transfer of the land as security, and partly by means of fictitious proceedings before the conciliator or by other transactions. The demoralisation of rural society was predicted as a consequence of the temptations offered by paternal legislation to the setting up of false defences. Errors due to corruption, incapacity and irresponsibility were expected to flow from the substitution of revision for regular appeals. The system of conciliation would only create delay and offer opportunities for evasion of the Act and for corrupt practices. The 'blundering benevolence' of the provisions as to registration would lead to oral contracts. Such were some of the criticisms offered in this Council which found echo elsewhere. The amending Act of 1881 enabled Mr. Justice West to express in his usual weighty and thoughtful style the fears which occurred to his mind in looking forward to the probable effects of the Act. The Secretary of State for India, Lord Hartington, thereon called for a special report, which was drawn up and submitted by Mr. Woodward in 1883. Certain issues raised in it were subjected to further discussion by a Committee, sometimes called Mr. Gonne's Committee, and upon this information the Government of Bombay assured the Secretary of State for India that the Act

had proved a success. In November, 1884, Lord Kimberley, the Secretary of State, accepted the following conclusions :—

'It is shown that cultivation has extended in area since the Act became law; that it has not fallen off in quality; that the revenue is realised as punctually as ever; that it has ordinarily been paid from the produce of the land, not by borrowing or by the sacrifice of agricultural stock; and that, in those tracts which have suffered at once from short harvests and low prices, the people have struggled against the difficulties of the seasons as successfully as they did before the Act was passed. It is the opinion of officers who possess intimate knowledge both of the working of the law and of the condition of the people that the moral effect of the law has been good; that it has encouraged thrift, prudence and mutual help. Finally, it is confidently stated that the opinion of the raiyats themselves is altogether in favour of the Act.'

"Lord Kimberley's despatch eventually led to the amendments which were embodied in Act XXIII of 1886, and it is principally in regard to the sections then added to the original Bill that the Bill which I now seek leave to introduce asks for further powers from the Legislature. In 1888 Lord Cross suggested a special report upon the working of the Act if the continuance of the Special Judge was advocated. In April, 1889, Mr. Woodburn submitted his report, and it received the most searching criticism at the hands of Sir Raymond West, who had then become a Member of the Bombay Council. In view of the large issues raised, upon which, so far as the Bill is concerned, the Council need not be troubled to exercise its judgment, the Government of India decided to appoint an independent Commission, under the presidentship of Mr. J. W. Neill, to ascertain how far the results of the legislation had justified the anticipations of its promoters. The report of the Commissioners, dated 11th June, 1892, confirmed the opinions expressed by those who preceded them, that a load of debt had been taken off the raiyat's shoulders without demoralising him or shaking his credit and without ruining the moneylender. They affirmed the success of the six leading provisions of the Act, namely, (1) the provisions against *ex parte* decrees, (2) those for going behind the bond, (3) those for redemption-suits and suits for account, (4) those for payment by instalments, (5) the abolition of imprisonment for debt, and (6) the limitations upon sales of immoveable property to cases where it was specially pledged, and recommended the retention of conciliation and compulsory registration. They criticised each section of the Acts and advocated a series of amendments. They went further and proposed an outline of a general Act for agriculturists throughout India, and certain amendments of the general laws affecting all classes of the community in respect of contracts, civil

1894.] [*Mr. Lee-Warner.*]

procedure, evidence and limitation, which lie beyond the scope of this simple Bill. Upon their report the matured views of Sir Raymond West are not wanting, and a paper which he read before the Society of Arts in London on the 18th of May, 1893, will no doubt have attracted the attention of those who are interested in the whole question. Meanwhile, the Government of Bombay had in March of last year arrived at its conclusions upon the report, so far as that report dealt with the law actually in force in the Dekkhan, and addressed the Government of India. The Bill which I seek to introduce gives effect to the final decision of the Government of India upon the particular issues so raised.

"I have thought it my duty, my Lord, to give the Council this outline of the discussion through which the Acts introduced by Sir Theodore Hope have passed. The Council will not fail to observe the unusual degree of attention given to the operations of the Acts by the Local Government, the ability with which actual and potential objections to the Acts have been brought to public notice, the deliberate judgments passed by Her Majesty's Secretaries of State, and more recently by the Commission appointed by the Government of India, and the safe foothold thus obtained by experience and deliberation for further action. Having served in two of the districts in several capacities both before and after the introduction of the Dekkhan Relief Acts, I might be justified in stating the results and grounds of my own experience; but I think it unnecessary to trouble the Council with any general remarks in view of the more simple and narrow issue raised by my present motion. I am sure that the Council will attach weight to the view that a law dealing with contracts and transactions of rural society, which has been in force for nearly fifteen years in a certain area, could not be materially altered without a grave dislocation of existing relations and calculations, and that neither the opinion of the Local Government or of the population affected, nor that of the Secretary of State, nor that of the recent Commission would justify such a reversal of our past proceedings. The principle of avoiding great changes of law will, I trust, commend itself to this Council as a reasonable proposition, and as it involves no tax upon their critical or jural faculties will tend to disarm controversy. If that is conceded, I have only to show that the few amendments which it is proposed to introduce are reasonable and uncontentious.

"The changes which require mention are the following. A power to extend the Act to any other districts was conferred on Government in 1886; but there may be strong reasons for extending its operations to parts of a

district and not to the whole of it. The district of Nasik, for instance, was created by severing talukas from Ahmadnagar and Khandesh, by the annexation of Peint, and by raising the core of the district round Nasik from a sub-district to the dignity of a district. With the Act in force in Ahmadnagar, its extension to the talukas in similar circumstances which have been transferred from it and added to Nasik might be necessary without bringing Peint or some of the Khandesh talukas under the law. Section 1 as amended will give this power. The alterations in section 2 in the definition of 'agriculturist' explain themselves, and, in one instance, the change of phrase from 'includes' to 'means' actually represents what was originally intended. A well-guarded addition is made to section 13, so as to give what effect is possible to the Commission's recommendations in favour of agreements for the set-off of profits against interest and assessment. The present section 14 is made of general application and transferred to Chapter XI as section 69B. The amendment to section 15D (3) is an obvious improvement, since it gives the mortgagor time to find the money payable under the decree, and so gives effect to the intention of the Legislature. It is probable that hereafter section 61 will be altered so as to place the village-registration under the district-officers. The administration of the Relief Acts was intended to be the especial care of the revenue-officers, and there is not a revenue-officer in Bombay outside the four districts who, in view of the great agrarian question (the sale of rights in the soil) that is pressing for decision, can afford to treat as of no concern to him the working of the Dekkhan Acts. The separation of village-registration from the control of the district-officers was not intended by the framers of the Act, and the Government of Bombay has been addressed on the subject of amending this section. A new clause has been added in new section 69A providing for payments out of Court, which is in accordance with the spirit of decisions passed by various High Courts in India. For the rest the omissions of sections 8, 9, 15, 19 and 73 of the existing Acts will no doubt meet with the approval of this Council, and they require no detailed explanation. In conclusion section 72 is amended so as to exclude from the special limitation period any new tracts of country to which the Dekkhan Relief Acts may be extended, in the expectation that the ordinary law of limitation will presently be amended so as to provide a reasonable time within which all suits will be brought."

The Motion was put and agreed to.

The Hon'ble MR. LEE-WARNER also introduced the Bill.

1894.] [*Mr. Lee-Warner.*]

The Hon'ble MR. LEE-WARNER also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the Bombay Government Gazette in English, and in such other languages as the Local Government thinks fit.

The Motion was put and agreed to.

The Council adjourned *sine die*.

S. HARVEY JAMES,

SIMLA; *Secretary to the Government of India,*
The 12th April, 1894. *Legislative Department.*

G. C. Press, Simla.—No. 10 L. D.—13-4-94.—316.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Viceregal Lodge, Simla, on Thursday, the 12th July, 1894.

PRESENT:

His Excellency the Viceroy and Governor General of India, P.C., LL.D., G.M.S.I., G.M.I.E., *presiding.*
His Honour the Lieutenant-Governor of the Punjab, K.C.S.I.
His Excellency the Commander-in-Chief, K.C.B., G.C.I.E., V.C.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, K.C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C S.I.
The Hon'ble J. Westland, C.S.I.
The Hon'ble Sir A. P. MacDonnell, K.C.S.I.
The Hon'ble Baba Khem Singh Bedi, C.I.E.

NEW MEMBER.

The Hon'ble BABA KHEM SINGH BEDI took his seat as an Additional Member of Council.

PRESIDENCY SMALL CAUSE COURTS ACT, 1882, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER said:—"Before I make the first Motion, I have to ask, under circumstances which I will describe, that Your Excellency would suspend the 24th Rule of Business, in which it is provided that the Select Committee to which any Bill is referred shall state whether it has been so altered as to require republication, &c. By some accident—I will not attempt to determine who is to blame for it—I daresay I am, more or less, myself—the Select Committee to which this Bill was referred, having a great deal of matter before them which required consideration, omitted at the last moment to provide for this purely formal regulation, and the result is that, under the 24th Rule of Business, the Report is an incomplete one, and, if it were

convenient, I should suggest that the Committee should be called again together *pro formâ,* for the purpose of completing its Report; but under the circumstances—this Committee having sat in Calcutta, one member being now in Calcutta and another in Bombay—this is practically impossible, and, as the matter is purely formal, I would ask Your Excellency to suspend this Rule of Business in order that the Council may now proceed to the consideration of the Report. It is entirely a matter for Your Excellency to decide."

His Excellency THE PRESIDENT said:—"I think that, under the circumstances as stated by the Hon'ble Member, the Rule may be suspended in this case."

The Rule was accordingly suspended.

The Hon'ble SIR ALEXANDER MILLER moved that the Report of the Select Committee on the Bill to amend the Presidency Small Cause Courts Act, 1882, be taken into consideration. He said:—"I may state that I have received two telegrams from public bodies in Calcutta—one of them the Bengal Chamber of Commerce—pointing out, what is perfectly true, that, according to the ordinary practice, no Bill of a commercial or a controversial character ought to be passed except at Calcutta; and, if this Bill had not been practically settled in Calcutta and the entire discussion of it had not taken place there, I should not have thought of asking the Council to pass it in Simla. But the facts as regards the Bill are somewhat peculiar; it was discussed in Calcutta during two cold seasons; the Bill, in its original form, was discussed in Calcutta as long ago as 1892-93, and then the objections to the Bill were not only considered at considerable length, but they were sent home for the consideration of the Secretary of State in Council, and he expressed a wish to see the form in which the Bill was eventually passed through the Select Committee before any other step was taken. During the last Calcutta session the Bill was before a Select Committee, and my hon'ble friend Sir Antony MacDonnell, who was on the Committee, will bear me out in saying that it was considered with great care by that Committee, that all the points which were controversial were then and there discussed, and that a settlement was come to with the consent of the whole Committee, (I do not think there was any actual division on any occasion,) and the Bill as settled by the Committee would have been, in due course, passed during the last Calcutta session had it not been for the fact that the Secretary of State desired to see it before it was finally disposed

of. Under these circumstances I stated in Calcutta at the time that my only reason for not asking the Council then and there to take the Bill into consideration was that we were under an obligation to send it home to the Secretary of State in Council. That was accordingly done, and we have received a despatch from the Secretary of State in Council stating that he has no further objections to the Bill; and, under these circumstances, I think that the rule that Bills of this character should be discussed and settled in Calcutta has been substantially complied with, and that there is not sufficient reason for postponing until the next cold weather the mere formal passing of the Bill as it has come from the Select Committee. It is a matter which I desire to leave in the hands of the Council. If it is considered that there is any reason for postponing the Bill for the next few months I should not press it, but I think myself that the rule has been substantially complied with, and, if so, there is another reason why the Bill should now pass into law—and if that view commends itself to the Council there is good reason for not delaying it—namely, that the best time for introducing any change such as the Bill proposes is at the end of the vacation. I propose, if this Bill be taken into consideration now, to bring it into force on the 1st October, so that it will come into force with the new sittings of the Courts, whereas if it be postponed to be passed in Calcutta it will come in in the middle of the sittings, and consequently at a very awkward time, or be postponed for another twelve months. With these observations I beg to move the Motion in my name."

The Hon'ble SIR ANTONY MACDONNELL said:—"I should like with reference to this matter to say that from Lord Ripon's time I believe that most measures affecting the commercial interests of the country, or of a controversial character, have been passed by this Council in Calcutta. As my hon'ble friend Sir Alexander Miller has said, I was a member of the Select Committee on this Bill; the President of the Chamber of Commerce, Mr. Playfair, was also a member; and so was Sir Griffith Evans. The Bill was most carefully discussed, and my remembrance is that the conclusions come to were (if I am not violating the secrecy of the Select Committee) referred to the Chamber of Commerce with the view of procuring their assent to the arrangements come to, and we were informed in Select Committee that the arrangements or proposals made were acceptable to the Chamber of Commerce, and generally to the mercantile community of Calcutta; so that when my hon'ble friend Sir Alexander Miller the other day proposed to bring forward this Bill I made no objection, because I thought that it would be passed through as a matter of course. Now, however, as objection has been raised to its being proceeded with in Simla by such an

[*Sir Antony MacDonnell; Mr. Westland; Lieutenant-General Brackenbury; Sir Alexander Miller; The President.*] [12TH JULY,

influential body as the Bengal Chamber of Commerce, it will, I think, be better if the Bill is submitted to the complete Council and if Your Excellency had the advantage of hearing a debate on the substantive provisions of the measure."

The Hon'ble MR. WESTLAND said:—"I am afraid I must say that I agree with the Hon'ble Sir Antony MacDonnell in his objection to the Bill being taken up and passed now. The objection seems to me all the stronger for the reason that, as Sir Alexander Miller has explained, the Bill when it came back from the Select Committee was submitted to the Secretary of State at a time when it was still before this Council. I remember the occurrence and my hon'ble friend Sir Alexander Miller's explanation that it was necessary to send the measure to the Secretary of State because the Secretary of State had desired that it should be seen by him. But I confess that I think such bodies as the Bengal Chamber of Commerce and the European and Anglo-Indian Defence Association would have grounds for taking strong exception to the procedure in this Council if a Bill of this kind were withdrawn from the consideration of the Legislative Council by reason of its having been submitted to the Secretary of State, which is practically what would be the result if it were passed at the present sitting."

The Hon'ble LIEUTENANT-GENERAL BRACKENBURY said:—"I have the same feeling. The words of the telegram from the Bengal Chamber of Commerce are 'a strong protest' against the Bill being passed here; and I think it so important that in these commercial matters we should legislate in accord with bodies like the Bengal Chamber of Commerce, rather than in apparent opposition to them, that I would suggest that the Motion should be withdrawn."

The Hon'ble SIR ALEXANDER MILLER said:—"I am quite prepared to abide by whatever decision the Council comes to. My only desire was to ascertain the feeling of Hon'ble Members on the subject."

His Excellency THE PRESIDENT said:—"I understand that it is the wish of the Council that the consideration of the Bill should be postponed. I did not think it right to stop it on the technical point raised by the Hon'ble Member in his opening remarks. I do, however, now consider that there is sufficient reason for not proceeding further with the Bill at present."

The Motion that the Report of the Select Committee be taken into consideration was, therefore, withdrawn.

1894.] [*Sir Alexander Miller.*]

INDIAN PENAL CODE AND ACT VI OF 1864 AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER also moved that the Bill to amend the Indian Penal Code and Act VI of 1864 be referred to a Select Committee consisting of the Hon'ble Mr. Westland, the Hon'ble Sir Antony MacDonnell and the Mover. He said :— 'This is a Bill which was introduced at Calcutta. It contains amongst other things a provision for carrying out the international postal arrangement, and the Financial Department are very anxious to get it through as soon as possible. I do not think that it contains anything which is at all of a controversial nature, and it is unquestionably—at any rate so far as the part of it which refers to this international postal arrangement is concerned—of a very urgent character. I do not think therefore that any harm can be done by referring the Bill to a Select Committee; if hereafter it is thought necessary to postpone it, that can be done."

The Motion was put and agreed to.

CIVIL PROCEDURE CODE AND PUNJAB LAWS ACT, 1872, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER also moved for leave to introduce a Bill to amend certain sections of the Code of Civil Procedure and to repeal certain sections of the Punjab Laws Act, 1872. He said :—" The repeal of certain sections of the Punjab Laws Act is merely consequential and does not really require any explanation. The Bill proposes to alter the Code of Civil Procedure in one or two matters of practice which are said to be inconvenient. The first is that by section 39 of the Code every person appearing as a pleader or vakil in any Court of the country is obliged to produce a written retainer unless he happens to be an advocate of one of the Chartered High Courts, in which case he is entitled to appear, as every barrister in the United Kingdom can do, without producing any written authority for the purpose. It has been found very inconvenient that advocates practising in the Chief Court of the Punjab should be exposed to this difficulty unless they happen to be advocates of one of the other High Courts also, in which case they are not required to produce a written authority; and, looking to the character of the Chief Court of the Punjab—a Court which I confess I regret has not been put in the position of a Chartered High Court—it seemed not only to me but

to the other members of the Government to whom the matter was referred some twelve months ago very reasonable that the advocates of the Chief Court of the Punjab should be put in this respect on the same footing as the advocates of the Chartered High Courts; and that is all which the first section of the Bill proposes to do.

"The second section of the Bill is intended to make clear a question on which there has been apparently a difference of opinion in different Courts. The Code as it stands, after providing that the party on whom the proof of the issue lies in any case is to open his case and produce his evidence, goes on to say that the other party shall then state his case and produce his evidence, after which the party on whom the issue lies shall have the right to reply. Some of the Courts construed this to mean that the second party must necessarily state his case first and then produce his evidence, the result being that the counsel for the 'other party'—in most cases the defendant—would ordinarily have no opportunity of commenting upon his own evidence and would be unable to produce before the Court a connected argument putting all the evidence together, would be obliged to rely on his criticisms of the plaintiff's evidence and to leave his own evidence to the criticisms of the plaintiff's counsel unexplained and uncommented on by himself, which of course would be a great hardship. I do not think that the Code was intended to produce such hardship, but as it has been so ruled in some Courts it has been thought desirable to alter the wording of the section so as to make the matter quite clear; and, therefore, instead of saying 'the other party shall then state his case and produce his evidence, if any,' we propose to add 'and may then address the Court generally on the whole case.' The result will be to leave it in the power of the defendant's counsel to address the Court and sum up his evidence—a practice which prevails, I believe, everywhere except in some very few Courts, where it has been held that the Code of Civil Procedure negatives that practice—a practice which is universal at home, and which seems to me to be necessary in the interests of justice.

"The third section of the Bill provides for an alteration which I believe was originally agreed to as long ago as 1890, but it was not considered pressing, and the alteration was directed to stand over until some other amendment of the Code was in hand. In a case which no doubt most Hon'ble Members will recollect as having created a very great stir at the time—the case of Rukmabhai—it was decided by the High Court at Bombay that where a decree for the restitution of conjugal rights had been made and the defendant refused to comply with the decree the Court had no option but to sentence

her to imprisonment for three months under section 260 of the Code. This was considered a very great hardship at the time, and there was a great deal of discussion upon it, the notes referring to it amounting to—I am speaking from memory—something like one hundred pages in print, but the eventual outcome of the discussion was that it was then considered desirable to extend the discretion of the Court so as to make it unnecessary, unless the Court thought fit, to impose a sentence of imprisonment on the defendant who refused to comply with the decree. Personally I should like to go further and say that no woman should be compelled to live with a man whom she did not care for, and that it would be quite sufficient to determine that she should be civilly responsible for any pecuniary damage which the man sustained and also for damage to his feelings in the ordinary way; but the Government of India considered that that would be going too far and making too great an alteration in the existing law, and they proposed instead not simply to bar the right of imprisonment but to leave it discretionary with the Court whether to send her to jail or not. Of course, no civil remedy which the husband may have is in the least interfered with, and all the civil liabilities to which she is subject at present by law will still remain unaffected if this alteration is made.

"The fourth and fifth sections of the Bill provide that the respondent to an appeal shall get a copy of the memorandum of appeal, so that he may have the fullest possible information as to the grounds on which the decree is appealed from. I do not know how it has come about, for the memorandum of appeal necessarily contains the grounds of appeal, but at present all that the respondent is served with is a notice from the Court that an appeal has been entered, and he has to find out as best he can on what grounds the decree which he has obtained has been appealed from. It has been thought desirable to assimilate the practice in the case of appeals to the practice in the case of the original institution of the suit. In that case a copy of the plaint is given to each of the defendants at the same time as the summons, and if this clause passes it will practically provide that for the future, when there is an appeal, a copy of the memorandum of appeal will be served on each of the respondents at the same time as the notice of appeal. This seems to me to be a very convenient practice, and one which practically, though not exactly in the same form, prevails in the Appellate Courts in England, and which will really put the practice as to appeals upon the same footing as the Code of Civil Procedure puts the practice as to the original hearing of suits.

[*Sir Alexander Miller; The Lieutenant-Governor.*] [12TH JULY,

"The remaining section of the Bill is merely a repeal of two sections of the Punjab Laws Act which are unnecessary, and the repeal of which is thought desirable by the Punjab Government."

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER also introduced the Bill.

The Hon'ble SIR ALEXANDER MILLER also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

CANTONMENTS ACT, 1889, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER also moved for leave to introduce a Bill to amend the Cantonments Act, 1889. He said:—"I have very little indeed to say upon this Bill. It is a Bill which has been introduced by direction of Her Majesty's Government in order to comply, if this Legislative Council should think fit to do so, with the requirements of the majority of the Commission which sat on the question of the practice of the examination of prostitutes in cantonments. That Commission reported by a majority of three to two that legislation was necessary in order to carry out the Resolution of the House of Commons on that subject, and the result of that decision is that Her Majesty's Government have expressed a wish that this particular Bill, which has been practically, though not formally, drawn in England, should be introduced for the consideration of the Legislative Council."

His Honour THE LIEUTENANT GOVERNOR said:—"We have not had any statement of what the provisions of the Bill are; so I think it is better that we should reserve any remarks which we have to make on it."

The Hon'ble SIR ALEXANDER MILLER said:—"If His Honour the Lieutenant-Governor wishes, I will state what the provisions of the Bill are; but I purposely did not do so because I have explained the circumstances under which it is proposed to introduce the Bill, and I have no desire to express any opinion either way as to the advisability of its provisions."

1894.] [*Sir Antony MacDonnell; The President; Sir Alexander Miller.*]

The Hon'ble SIR ANTONY MACDONNELL:—"Are we to understand that this Bill is to be taken up in Simla?"

His Excellency THE PRESIDENT:—"I understood not."

The Hon'ble SIR ANTONY MACDONNELL:—"I ask the question with reference to what His Honour has said. If the Bill is not taken up in Simla, he will not have an opportunity of expressing his views on it. For my own part I think it would be very undesirable that it should be taken up in Simla."

The Hon'ble SIR ALEXANDER MILLER:—"I think it necessary that a Bill of this kind, if introduced, should be circulated to Local Governments and Administrations. When that is done, His Honour will have an opportunity in another capacity of expressing his opinion on it."

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER also introduced the Bill.

The Hon'ble SIR ALEXANDER MILLER also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 2nd August, 1894.

J. M. MACPHERSON,

SIMLA; *The 19th July, 1894.*

Deputy Secretary to the Government of India, Legislative Department.

C. C. Press, Simla.—No. 154 L. D.—20-7-94.—316.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Viceregal Lodge, Simla, on Thursday, the 16th August, 1894.

PRESENT:

His Excellency the Viceroy and Governor General of India, P.C., LL.D., G.M.S.I., G.M.I.E., *presiding.*
His Honour the Lieutenant-Governor of the Punjab, K.C.S.I.
His Excellency the Commander-in-Chief, K.C.B., G.C.I.E., V.C.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, K.C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble J. Westland, C.S.I.
The Hon'ble Sir A. P. MacDonnell, K.C.S.I.
The Hon'ble Baba Khem Singh Bedi, C.I.E.

QUESTION AND ANSWER.

The Hon'ble BABA KHEM SINGH BEDI asked—"Whether the Government will give some explanation of its procedure in selecting in the Notification of last Monday a portion only of the holders of the loan of 1865 for compulsory conversion."

The Hon'ble MR. WESTLAND replied:—

"We have been following in this matter the procedure indicated by Mr. Goschen in his conversion operations in England in 1888. He began with an optional conversion, and declared his intention to deal with the dissentients by paying them off 'in such order, at such time or times, and in such manner, as Parliament may direct' (51 Vict., c. 2).

"In the optional conversion Mr. Goschen proceeded by special legislation, but, considering that in India there might be objections to this course, we preferred adopting our usual procedure and keeping strictly within the conditions set forth in our promissory notes. We notified one of our principal loans for discharge

and offered terms of conversion which we declared equally open to the holders of all other loans. Having thus begun by offering equally favourable conditions to all, we consider ourselves free now to deal with those who have not accepted these conditions by paying them off 'in such order, at such time or times, and in such manner,' as may be expedient, and as are within the terms of the contract between the Government and the holders of the notes.

"In proceeding, therefore, to the conversion of other loans we have exercised a liberty which is undoubtedly within our legal rights in notifying for discharge only a portion of one of the loans. If we had selected that portion by the quotation of specific numbers of notes, we believe holders would in many cases have found difficulty in ascertaining whether their notes were within the terms of the notification or not. By describing the portion selected as that on which interest is payable at Calcutta, each holder knows at once to what extent his holding is now notified for discharge. The Calcutta portion of the loan of 1865 was selected as the largest of the five portions into which that loan is divided in the accounts of the Public Debt Office. The holders of that portion of the loan have not, it appears to me, any occasion to complain of their selection, for they cannot imagine they are selected for worse terms than we intend hereafter to offer to other holders.

"We have thought proper to renew for a short period (except to the holders of the balance of the loan of 1842-43, now under discharge,) the terms of optional conversion offered on 30th June. We do this so as to put all holders once more on the same level as to the terms we offer, and by doing so to keep ourselves absolutely free in any future operations to deal as we please with each portion of each loan, without being bound to offer the terms previously offered to others.

"The holders of the portion of the loan of 1865 now notified for discharge can, if they choose, take advantage of this offer. They have also the option given by the new notification of withholding their tender for conversion till September 15th, but in doing so they will receive payment on the less favourable terms of the new notification."

INDIAN ARTICLES OF WAR BILL.

The Hon'ble LIEUTENANT-GENERAL BRACKENBURY moved for leave to introduce a Bill to amend the Articles of War for the Government of Her Majesty's Indian Forces. He said:—

16TH AUGUST, 1894.] [*Lieutenant-General Brackenbury; Sir Alexander Miller.*]

"My Lord, the passing by the Imperial Parliament of the Madras and Bombay Armies Act of 1893 abolishing, from a date to be determined by the Governor General in Council, the presidential army system in India, has made it necessary to make certain alterations in Act V of 1869 of the Indian Legislature, known as the Indian Articles of War, in order to bring this Act into accord with the Madras and Bombay Armies Act.

"Legislation for the amendment of the Indian Articles of War having thus become necessary, it has been decided at the same time to make certain further amendments in these Articles which the experience of the last quarter of a century has shown to be necessary or eminently desirable. I therefore ask for leave to introduce a Bill for the above purpose, the details of which will be found sufficiently fully set forth in the Statement of Objects and Reasons.

"The Bill has been prepared in consultation with the Judge Advocate General and the military authorities."

The Motion was put and agreed to.

The Hon'ble LIEUTENANT-GENERAL BRACKENBURY also introduced the Bill.

The Hon'ble LIEUTENANT-GENERAL BRACKENBURY also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

BURMA MUNICIPAL ACT, 1884, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER moved for leave to introduce a Bill to amend the Burma Municipal Act, 1884. He said:—"The Municipality of Rangoon, it appears, has not got an income sufficient to pay its expenses. The expenses have been very heavy in consequence mainly, I think, of the introduction of a system of sewage which they believe to be a great improvement. They could raise the necessary money by increasing the water-rate and the scavenging-tax, which they have the power to increase to any amount necessary for the purpose of paying the expenses of the improvements; but, for some reason best known to themselves, they desire not to do that, and therefore

they want leave to increase the house-tax, which at present is limited to 5 per cent. on the value of the houses in the municipality. They did propose to amalgamate all the taxes into one general tax, but the Government of India, for reasons with which I need not trouble the Council, thought that proposal premature. It is estimated that if they are permitted to raise the house-tax from a maximum of 5 per cent. to 8 per cent. it will just cover the municipal expenditure without leaving them any margin for improvements, but will enable them to go on until such time as the new Bill which they wish to introduce can be examined and, if necessary, passed. On the other hand, it is proposed that they should be allowed to increase this taxation up to a maximum of 10 per cent., which would leave them a moderate, though not excessive, margin for improvements in the meantime, while the other Bill is being dealt with. The Government of India has expressed no opinion as to whether 10 or 9 or 8 per cent. would be a proper maximum to introduce as a temporary maximum. They agree to the introduction of the Bill which I now ask leave to introduce, in which the maximum is fixed at 10 per cent.; but it must be clearly understood by the Municipality of Rangoon—and I wish it also to be clearly understood in this Council—that in introducing this Bill the Government is in no way bound to the figure 10, and if the Select Committee should think any lower figure sufficient for the present purpose there would be no objection made to its being substituted for the other."

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER also introduced the Bill.

The Hon'ble SIR ALEXANDER MILLER also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the Burma Gazette in English and in such other languages as the Local Administration thinks fit.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 6th September, 1894.

J. M. MACPHERSON,

SIMLA; *The 17th August, 1894.*

Offg. Secretary to the Government of India, Legislative Department.

NOTE.—The Meeting fixed for the 2nd August, 1894, was subsequently postponed to the 16th idem.

G. C. Press, Simla.—No. 228 L. D.—17-8-94.—316.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Viceregal Lodge, Simla, on Thursday, the 6th September, 1894.

PRESENT:

His Excellency the Viceroy and Governor General of India, P.C., LL.D., G.M.S.I., G.M.I.E., *presiding.*
His Excellency the Commander-in-Chief, K.C.B., G.C.I.E., V.C.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, K.C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble J. Westland, C.S.I.
The Hon'ble Sir A. P. MacDonnell, K.C.S.I.
The Hon'ble Baba Khem Singh Bedi, C.I.E.

INDIAN ARTICLES OF WAR BILL.

The Hon'ble LIEUTENANT-GENERAL BRACKENBURY moved that the Bill to amend the Articles of War for the government of Her Majesty's Indian Forces be referred to a Select Committee consisting of His Excellency the Commander-in-Chief, the Hon'ble Sir Alexander Miller, the Hon'ble Sir Antony MacDonnell and the Mover, with instructions to report within one month.

The Motion was put and agreed to.

REPEALING AND AMENDING (ARMY) BILL.

The Hon'ble LIEUTENANT-GENERAL BRACKENBURY also moved for leave to introduce a Bill to amend certain enactments relating to the Army. He said:—"The Madras and Bombay Armies Act which has been passed by Parliament has thrown certain duties, and conferred certain powers, upon the Government of India and the Commander-in-Chief in India which were formerly thrown upon, or exercised by, the Governments of Madras and Bombay and the Commanders-in-Chief of those Presidencies, respectively. It has therefore become necessary to amend certain Acts of the Indian Legislature so as

[*Lieutenant-General Brackenbury; Mr. Westland.*] [6TH SEPTEMBER, 1894.

to bring them into accord with the Madras and Bombay Armies Act; and the Bill which I beg to move for leave to introduce is for that purpose.

The Motion was put and agreed to.

The Hon'ble LIEUTENANT-GENERAL BRACKENBURY also introduced the Bill.

The Hon'ble LIEUTENANT-GENERAL BRACKENBURY also moved that the Bill and Statement of Objects and Reasons be published in English in the Gazette of India and in the local official Gazettes.

The Motion was put and agreed to.

ENGINEERS' CERTIFICATES VALIDATION BILL.

The Hon'ble MR. WESTLAND move for leave to introduce a Bill to validate certain certificates granted to engineers of steam-ships. He said:—

"The Bill which I ask the leave of the Council to introduce has for its object the remedying of a mistake of little more than a technical character.

"Under certain Acts of the Governor of Bombay in Council, certificates of competency, which were styled Indian foreign trade certificates of competency, and which were valid only for Indian waters, were granted, after the necessary examinations, to engineers of steam-vessels in Bombay.

"The law under which these certificates were granted was repealed by the Inland Steam-vessels Act (VI of 1884), and an Act passed at the same time, the Indian Steam-ships Act (VII of 1884), provided a system of examination and a prescribed certificate, which after the date on which the Act came into operation should have taken the place of the examination and certificate of the former Bombay system. This certificate is of a somewhat higher character than the Indian foreign trade certificate of the Bombay system, being valid outside Indian waters and being recognised by the Board of Trade.

"The Bombay authorities, however, failed to observe the repeal of their local Act under which these examinations were held and certificates given, and up till February, 1893, when the fact was brought to their notice, they continued to issue the Indian foreign trade certificates under the supposed authority of the repealed Act. About eighty such certificates have been issued, and under the circumstances explained they have no legal validity.

"Now, under the Steam-ships Act (VII of 1884), a certificate cannot be granted to a steam-ship unless the surveyor has first found the steam-ship complete in certain particulars, one of which is that the certificates of the engineer are 'such and in such condition as are required by any law for the time being in force and applicable to the steam-ship.' The certificate I refer to being invalid—a certificate of survey—has, strictly speaking, to be refused to a steam-ship if its engineer possesses only this invalid qualification.

"It is considered unfair to the men who hold these invalid certificates to recall them and so deprive the holders of their means of livelihood. It would be unfair to require them at the peril of losing their means of livelihood to qualify by the examination prescribed under the later Act for the higher certificate required under the existing law. Their certificates, though legally invalid, are really evidence of the possession of the necessary qualifications for their present employment within the limits prescribed in them.

"The object of the present law therefore is to declare these certificates to be legal to the same extent as they would be if the law under which they were granted had continued in force up to the time when they were granted. They will not have the greater, or rather wider, validity of certificates under the existing Act."

The Motion was put and agreed to.

The Hon'ble MR. WESTLAND also introduced the Bill.

The Hon'ble MR. WESTLAND also moved that the Bill and Statement of Objects and Reasons be published in English in the Gazette of India and in the Bombay Government Gazette.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 20th September, 1894.

J. M. MACPHERSON,

SIMLA; *Offg. Secretary to the Government of India,*
The 7th September, 1894. *Legislative Department.*

G. C. Press, Simla.—No. 275 L. D.—7-9 94.—316.

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Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Viceregal Lodge, Simla, on Thursday, the 20th September, 1894.

PRESENT:

His Excellency the Viceroy and Governor General of India, P.C., LL.D., G.M.S.I., G.M.I.E., *presiding.*
His Honour the Lieutenant-Governor of the Punjab, K.C.S.I.
His Excellency the Commander-in-Chief, K.C.B., G.C.I.E., V.C.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, K.C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble J. Westland, C.S.I.
The Hon'ble Sir A. P. MacDonnell, K.C.S.I.

CODE OF CIVIL PROCEDURE AND PUNJAB LAWS ACT, 1872, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill to amend certain sections of the Code of Civil Procedure and to repeal certain sections of the Punjab Laws Act, 1872, be referred to a Select Committee consisting of the Hon'ble Sir Antony MacDonnell, the Hon'ble Baba Khem Singh Bedi and the Mover, with instructions to report within one month. He said:—"The Bill is practically one of procedure merely. It mainly affects the Punjab. I cannot say that there is absolutely nothing in it controversial, because there is one section which has given rise to a good deal of criticism both favourable and the contrary. But there is nothing in the least of a commercial nature in the Bill, or such as is required to be reserved for discussion in Calcutta, and I think it will be convenient to have it settled here, although I do not think there will be time to pass it. It will probably have to be passed in Calcutta, but I think we can conveniently get it through the Select Committee stage in Simla."

The Motion was put and agreed to.

BURMA MUNICIPAL ACT, 1884, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER also moved that the Bill to amend the Burma Municipal Act, 1884, be referred to a Select Committee consisting

[*Sir Alexander Miller; Lieutenant-General Brackenbury; Sir Antony MacDonnell.*] [20TH SEPTEMBER, 1894.]

of the Hon'ble Sir Antony MacDonnell, the Hon'ble Mr. Westland and the Mover, with instructions to report at the next meeting of the Council. He said :—" It will be remembered that this is a small Bill of a single section, and the only question for the Select Committee is to what extent the powers of the Rangoon Municipality to raise additional taxation are to be increased."

The Motion was put and agreed to.

REPEALING AND AMENDING (ARMY) BILL.

The Hon'ble LIEUTENANT-GENERAL BRACKENBURY moved that the Bill to amend certain enactments relating to the Army be referred to a Select Committee consisting of His Excellency the Commander-in-Chief, the Hon'ble Sir Alexander Miller, the Hon'ble Sir Antony MacDonnell and the Mover, with instructions to present its Report with the Report on the Bill to amend the Articles of War for the government of Her Majesty's Indian Forces.

The Motion was put and agreed to.

LOWER BURMA VILLAGE ACT, 1889, AMENDMENT BILL.

The Hon'ble SIR ANTONY MACDONNELL moved for leave to introduce a Bill to amend the Lower Burma Village Act, 1889. He said :—" That Act, as the Council know, established a village-system in Lower Burma, and conferred on the village-headman certain powers, while imposing on him certain duties and responsibilities of an executive and fiscal character. Among these duties are the prevention of public nuisances and the promotion of general sanitation of the village. It has, however, been prominently brought to the notice of the Government of India that very great loss is annually caused to the Burmese people by the ravages of cattle-disease. Burma is an almost purely agricultural country; cattle form a large part of the wealth of the people, and the question of the preservation of cattle is therefore one of great importance in Burma. This question has engaged the special attention of the Local Administration for many years. It was considered seriously so far back as 1879, and has been, from time to time, during the last fifteen years, more or less carefully discussed. Sir Charles Bernard, than whom Burma has had no sincerer friend, was, after careful enquiry, brought to accept the desirability of legislation

in 1885; but the time was not opportune. The disturbances in Burma broke out in the end of that year, and it was not till 1889 that the matter was again considered in connexion with the establishment of the village-system in Burma, with which Sir Charles Crosthwaite's name is so honourably associated. Sir Charles Crosthwaite was disposed to include measures for the prevention of cattle-disease among the duties of the village-headman; but the idea was not then carried into effect, possibly through fear of overweighting the newly created village-officials with responsibilities and duties.

"Afterwards the question was taken up by Sir Alexander Mackenzie, who was compelled to go on leave before his plans had been matured. But they were prosecuted by his successor, Mr. Fryer, who, backed by a great weight of official and non-official opinion, submitted a Bill for the consideration of the Government of India; and this Bill was endorsed by Sir Alexander Mackenzie on his return to duty this year.

"Thus, my Lord, the proposal to legislate on this subject comes before this Council backed up by the authority of four successive Chief Commissioners, and supported by a very important and weighty body of official and non-official opinion. Indeed, such dissentient voices as are heard object not so much to the substance of legislation as to the form which it was proposed the legislation should take. The question then which in this connexion the Government of India was called on to decide was whether the legislation should be by a special Act providing a special procedure and a special organization for giving effect to it, or whether it should be by an enlargement of the functions of the village-headman, as was proposed in 1889. We had in the Madras Cattle-diseases Act of 1866 a precedent for a special Act. After the fullest deliberation, the Government of India has come to the conclusion that it is better to proceed cautiously and tentatively, and without special compulsion to keep behind rather than abreast of advanced opinion in Burma on this matter; not to take any step which, if wrong, cannot be at once retraced; and, above all, not to take the matter out of the hands of the people themselves, or impose conditions which are not in harmony with their wishes and customs. This policy can be better carried out by an amendment of the Village Act in the way now proposed than by a special enactment. Ultimately, when through practice we see our way more clearly, and, if the people demand it, a special law of a more comprehensive nature may be required; but for the present we think it better to proceed on a system which can, without difficulty, be adjusted to the wishes of the people and the requirements of time and place.

[*Sir Antony MacDonnell.*] [20TH SEPTEMBER, 1894.]

"The Chief Commissioner, Sir Alexander Mackenzie, accepts this procedure; and the short Bill which I ask for leave to introduce will be presented to the Council with his concurrence. Practically it consists only of one clause, as it re-enacts or reproduces two other clauses which already exist in the law. The new clause merely imposes upon the village-headman the duty of taking precautions, subject to rules made by the Local Government, to secure the cure or prevention of cattle-disease. The Act will apply to Lower Burma only; a similar change will be introduced into the Upper Burma Village Regulation under the powers conferred on the Governor General in Council by the Statute 33 Vict., c. 3."

The Motion was put and agreed to.

The Hon'ble SIR ANTONY MACDONNELL also introduced the Bill.

The Hon'ble SIR ANTONY MACDONNELL also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the Burma Gazette in English and in such other languages as the Local Administration thinks fit.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 4th October, 1894.

J. M. MACPHERSON,

SIMLA; *The 21st September, 1894.* } *Offg. Secretary to the Government of India, Legislative Department.*

G. C. Press, Simla.—No. 298 L. D.—21-9-94.—316.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Viceregal Lodge, Simla, on Thursday, the 4th October, 1894.

PRESENT:

His Excellency the Viceroy and Governor General of India, P.C., LL.D., G.M.S.I., G.M.I.E., *presiding.*
His Honour the Lieutenant-Governor of the Punjab, K.C.S.I.
His Excellency the Commander-in-Chief, K.C.B., G.C.I.E., V.C.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, K.C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble J. Westland, C.S.I.
The Hon'ble Sir A. P. MacDonnell, K.C.S.I.
The Hon'ble Baba Khem Singh Bedi, C.I.E.

INDIAN ARTICLES OF WAR BILL.

The Hon'ble LIEUTENANT-GENERAL BRACKENBURY presented the Report of the Select Committee on the Bill to amend the Articles of War for the government of Her Majesty's Indian Forces. He said that he proposed at the next meeting of Council to move that the Report be taken into consideration, and that he would reserve such few remarks as he had to make until then.

REPEALING AND AMENDING (ARMY) BILL.

The Hon'ble LIEUTENANT-GENERAL BRACKENBURY also presented the Report of the Select Committee on the Bill to amend certain enactments relating to the Army. He said that he would also ask that this Report be taken into consideration next week.

BURMA MUNICIPAL ACT, 1884, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER presented the Report of the Select Committee on the Bill to amend the Burma Municipal Act, 1884. He said that he hoped to be able to move that the Report be taken into consideration next week.

LOWER BURMA VILLAGE ACT, 1889, AMENDMENT BILL.

The Hon'ble SIR ANTONY MACDONNELL moved that the Bill to amend the Lower Burma Village Act, 1889, be taken into consideration.

The Motion was put and agreed to.

The Hon'ble SIR ANTONY MACDONNELL also moved that the following be inserted as sub-clause (iii) of clause (*l*) of section 6 of Act III of 1889 as proposed in the Bill :—

"the prevention and extinction of fires,"

and that the present sub-clause (iii) be numbered (iv).

He said :—"In introducing this Bill on the 20th September last, I took occasion to explain what the objects and scope of the measure were, and I do not suppose that it will be necessary to trouble Your Excellency or the Council now with more than a brief summary of what I said on that occasion. I explained that the object and scope of the measure were to empower the village-headman to take certain precautions in connection with the prevention of cattle-disease, and also, subject to rules and the control of the Local Government, to take measures for the cure of that disease. I also explained that the Bill was supported by a great weight of authority ; in point of fact, that it was admittedly a provision for what was felt to be a want in Lower Burma. Since introducing the Bill, I have had a communication from the Chief Commissioner, Sir Alexander Mackenzie, in which he stated, while accepting the Bill as it was introduced in Your Excellency's Council, that it is also the practice at present in villages in Lower Burma to make certain provisions for the prevention and extinction of fires, and he desired that advantage should be taken of this opportunity with a view of legalizing the rules issued for that purpose and generally of bringing the practice which prevails within the provisions of the measure now before the Council. Personally I consider that there can be no more unobjectionable and legitimate practice than that referred to by Sir Alexander Mackenzie, and I think that it is quite within the scope of the Village Act that such power should be taken. At the same time I am ready to confess that this new proposal introduces a very considerable extension of the Bill as it was laid before the Council, and that there has been no time allowed for that full publication of this addition which is usual in these legislative measures ; and if, having regard to that circumstance, there is any feeling in the Council as to the undesirability of proceeding with this addition on the present occasion, I shall not consider myself justified in opposing it. On the other hand, I myself

1894.] [*Sir Antony MacDonnell; Sir Alexander Miller.*]

think that there is no such great departure—certainly no departure from the existing practice, and no such very large extension of the purport and objects of the legislation contemplated—as to preclude the Council from considering this matter now and allowing the Bill to pass out as the Chief Commissioner desires that it should."

The Hon'ble SIR ALEXANDER MILLER said:—"I do not know that it is necessary to add anything to what the Hon'ble Sir Antony MacDonnell has said. If this amendment were not proposed by the Chief Commissioner himself, I think it would be desirable that it should be sent back to Burma for an expression of opinion before it is passed; but inasmuch as it is a suggestion of the Chief Commissioner, and as we may fairly take it that it has been duly considered there, and as it is only legalizing an existing practice, I do not think it is necessary to postpone the passing of the Bill, which is urgently needed, for the purpose of such a reference."

The Motion was put and agreed to.

The Hon'ble SIR ANTONY MACDONNELL also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 11th October, 1894.

J. M. MACPHERSON,

SIMLA;
The 5th October, 1894.

Deputy Secretary to the Government of India,
Legislative Department.

G. C. Press, Simla.—No. 346 L. D.—5·10·94.—316.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Viceregal Lodge, Simla, on Thursday, the 11th October, 1894.

PRESENT:

His Excellency the Viceroy and Governor General of India, P.C., LL.D., G.M.S.I., G.M.I.E., *presiding.*
His Honour the Lieutenant-Governor of the Punjab, K.C.S.I.
His Excellency the Commander-in-Chief, K.C.B., G.C.I.E., V.C.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, K.C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble J. Westland, C.S.I.
The Hon'ble Sir A. P. MacDonnell, K.C.S.I.
The Hon'ble Baba Khem Singh Bedi, C.I.E.

INDIAN ARTICLES OF WAR AMENDMENT BILL.

The Hon'ble LIEUTENANT-GENERAL BRACKENBURY moved that the Report of the Select Committee on the Bill to amend the Articles of War for the government of Her Majesty's Indian Forces be taken into consideration. He said:—"The passing by Parliament of the Madras and Bombay Armies Act, transferring certain powers hitherto exercised by the Governments of Madras and Bombay to the Government of India, and abolishing the offices of Presidential Commanders-in-Chief from a date to be determined by the Governor General in Council, has made it imperative upon us to amend the Indian Articles of War so as to cause them to correspond from the same date with that Act. These Articles of War date from 1869, and experience of a quarter of a century has shown that they are capable of, and require, amendment in several points.

"The Bill now before us is the outcome of long and mature deliberation between Army Head-Quarters, the Judge Advocate General in India, the Legislative Department, and the Military Department of the Government of India. The Bill was referred to Local Governments for opinion, and all the suggestions made by them were fully considered by the Select Committee, on which there

served the Commander-in-Chief, the Legal and Military Members of Your Excellency's Council, and the Hon'ble Member in charge of the Home Department, while the Judge Advocate General attended the meetings of the Committee in order that we might consult him on any points that might arise.

"The Statement of Objects and Reasons, which I laid before Council when introducing this Bill, went fully into the causes of most of the alterations in the existing law proposed in the Bill. The Report of the Select Committee has explained the amendments to the Bill made by that Committee, upon all of which we were unanimously agreed; and I think it is unnecessary for me to do more than briefly to call attention to some of the chief changes which the Bill, as amended by the Select Committee, makes in the existing Articles of War.

"First, as regards offences punishable under this Act. Practically no new offences have been created; but some of the offences punishable under the Articles of War have been more clearly defined, and power has been given under this Bill for a soldier who commits certain grave offences involving violence against any person subject to military law to be tried by a Court-Martial instead of, as heretofore, exclusively by an ordinary Criminal Court; but power is reserved to any Criminal Court having jurisdiction to require the prescribed military authority at his option to deliver over the offender to the nearest Magistrate to be proceeded against according to civil law, or to postpone proceedings pending reference to the Governor General in Council.

"As regards Courts-Martial, great simplification has been made by the reduction of their number from eight, or in reality, if we include sub-divisions, from ten, to five; and the imprisonment which it is in the power of a District Court-Martial to award has been extended from one to two years, the amount which can be awarded by a District Court-Martial under the Army Act.

"There will now ordinarily be three kinds of Courts-Martial, namely, the General Court-Martial, the District Court-Martial and the Regimental Court-Martial, the powers of each of which are strictly defined; and there will be two kinds of extraordinary Courts-Martial, namely, the Summary General Court-Martial, which corresponds to the Field General Court-Martial of the Army Act and takes the place of the Detachment General Court-Martial of the existing Articles of War, and the Summary Court-Martial, which already exists and which is an institution peculiar to Indian military law. But whereas under the existing Articles of War a Summary Court-Martial held by an officer commanding a regiment or corps could pass any sentence not exceeding that awardable

by a District Court-Martial, such Court-Martial cannot under this Bill pass a sentence of imprisonment exceeding one year. And provision is made that if the officer holding the trial is of less than five years' service he shall not, except on active service, carry into effect any sentence until it has received the approval of a superior military officer.

"In the existing Articles of War there are certain differences between Courts-Martial appointed under an Order in Council and other Courts-Martial; all such differences are by this Bill abolished. In the event of the Governor General in Council thinking it necessary to order a Court-Martial to be held for any particular purpose, his orders would issue to the Commander-in-Chief in India to convene a Court-Martial for that purpose, and the Court-Martial would be held under the ordinary procedure. The difference between the two classes of proceedings originally arose out of an Act passed during the Mutiny, which empowered the Governor General in Council to give general power to officers commanding stations and detached forces in India to hold Courts-Martial and to carry out the sentences of those Courts. Under the Bill now before Council the Governor General in Council can empower any officer to hold a Summary General Court-Martial, but there will be no difference between its proceedings and those of any other Summary General Court-Martial convened by an officer empowered by the Commander-in-Chief or by the General Officer of the Command. And any officer commanding any detached portion of Her Majesty's troops on active service can convene a Summary General Court-Martial, when in his opinion it is not practicable, with due regard to discipline and the exigencies of the service, that the offence should be tried by an ordinary General Court-Martial. And the term 'when upon active service' means, under the definitions in this Bill, the time during which the officer is attached to or forms part of a force which is engaged in operations against an enemy, or is engaged in military operations in, or is on the line of march to, a country or place wholly or partly occupied by an enemy, or is in military occupation of any foreign country, while again the term 'enemy' includes all armed mutineers, armed rebels, armed rioters and pirates.

"It will be seen therefore that under the Bill now before Council ample provision is made for such stern measures of discipline as may be necessary not only in time of foreign war but in time of internal revolt.

"There is only one other point in the Bill to which I think it is necessary to call attention. Under the existing Articles of War persons under this Act, together with their arms, horses, clothes, equipment, regimental accoutrements

and necessaries, are protected from arrest or seizure for debt so long as they belong to the army. That provision has now been extended to the Indian Reserve Forces, which did not exist when the present Articles of War were framed. But this privilege is only extended to them when called out for, or engaged upon, or returning from, training or service."

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER said:—"I have a number of small amendments to move with regard to this Bill, and with Your Excellency's permission, unless any Member of Council desires that they should be taken separately, I think it would be convenient to explain them all at once, in which case it will only be necessary to put one motion. The proposed amendments, as they stand on the notice-paper, are as follows:—

that the word 'and' at the end of clause (*21*) of Part I, clause (*e*), as substituted by section 4 of the Bill, as amended, be omitted;

that the following be inserted as clause (*22*) of the same Part, namely:—

'(*22*) "offence" means any act or omission punishable under these Articles and includes a civil offence as hereinbefore defined: and';

that the present clause (*22*) be numbered (*23*);

and that in clause (*23*) as so renumbered the words 'and not herein otherwise defined' be inserted after the word 'Articles';

that in article 47 (*a*) as substituted by section 16 of the Bill, as amended, the words 'makes away with' be inserted after the word 'injures,';

that in section 30 of the Bill, as amended, the figures '83' be inserted before the figures '84,' and that the following be inserted as article 83 after the word 'namely' in that section, namely:—

Appointment of regimental court-martial.

"*Article 83.*—A regimental court-martial may be appointed by the officer commanding any corps or department or detachment thereof, or by any officer when in command of two or more corps or departments or detachments thereof.';

that in article 117 (*1*), as substituted by section 42 of the Bill, as amended, the word 'military' be omitted;

that to section 56 of the Bill, as amended, the following be added, namely:—

'and in the same paragraph, for the words "any Presidency" the words "a command" shall be substituted.'

"The first amendment is an addition to the interpretation-clause of the Bill. On examination of the Bill it appeared that the word 'offence,' if not otherwise explained, might probably have been held to mean an offence as defined in the Indian Penal Code. In this Bill it includes a number of military offences which would not be offences under the Indian Penal Code, and therefore it was thought necessary to insert a special definition of this word 'offence' under these Articles, so that it should extend to what might be described as a military offence as well as a civil offence, that is, an offence under the Indian Penal Code. Then clause (23), which provides that the words 'not herein otherwise defined' shall be interpreted as they are interpreted in the Penal Code, has to be somewhat altered with the object of showing clearly that the new definition of 'offence' is intended to override the definition in the Code.

"Then, as regards article 47 (*a*), which provided for the punishment of a soldier who 'designedly or through neglect kills, injures or loses his horse, or ill-treats any animal used in the public service,' it was suggested that the words 'makes away with' might be inserted because they might well meet a case which the word 'loses' already in the Act does not sufficiently cover, and it was thought desirable that there should be no doubt about such a case being properly covered in the Bill.

"Then it appeared that accidentally, in the simplification of the various kinds of Courts-Martial, power to convene a Regimental Court-Martial had been more restricted than under the ordinary Act; and I propose, with the consent of the Council, to alter article 83 so as to enable the same class of officers who can at present convene a Regimental Court-Martial still to convene it. This merely gets rid of a quite accidental limitation which I do not think was in the mind of the Select Committee at the time when the Bill was considered by them.

"The fourth amendment is to leave out the word 'military' in article 117 (*r*). It is the only place in the Bill where the expression 'military offence' occurs, and it cannot be seriously intended to confine the clause to military offences, because it provides that when a man has been convicted of a military offence then the Court-Martial is to inquire into previous convictions with a view to determining the punishment. It is quite clear that, whether the offence is

purely military or of an ordinary kind, the question of examination into previous convictions is equally important and pertinent.

"The last amendment I have to notice is in section 56, and is merely the result of a pure accident. The words 'any Presidency,' which occur in many places throughout the existing Act, it has been necessary in consequence of a recent change in the law to alter into 'a Command.' The expression has been left standing in one place merely because it had been overlooked, and it is desirable that the oversight should be remedied.

"I think I have now sufficiently explained the object of the various amendments, and I would ask Your Excellency to put the motion to the Council."

The Hon'ble LIEUTENANT-GENERAL BRACKENBURY said that he accepted all the amendments.

The Motion was put and agreed to.

The Hon'ble LIEUTENANT-GENERAL BRACKENBURY moved that the Bill, as now amended, be passed. He said:—"I confidently commend it to Council. It will simplify the proceedings of military justice. It in no way interferes with the existing rights of the Native officers and soldiers of the Indian army; it in some respects gives them increased protection; and it makes clear many points which were hitherto more or less involved in doubt."

The Motion was put and agreed to.

REPEALING AND AMENDING (ARMY) BILL.

The Hon'ble LIEUTENANT-GENERAL BRACKENBURY also moved that the Report of the Select Committee on the Bill to amend certain enactments relating to the Army be taken into consideration. He said:—"The Select Committee has only made one purely verbal amendment, and the Bill itself contains nothing but formal amendments to Acts to make them correspond with the Madras and Bombay Armies Act which has been passed by Parliament."

The Motion was put and agreed to.

The Hon'ble LIEUTENANT-GENERAL BRACKENBURY also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

11TH OCTOBER, 1894.] [*Sir Alexander Miller; Sir Antony MacDonnell.*]

BURMA MUNICIPAL ACT, 1884, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER moved that the Report of the Select Committee on the Bill to amend the Burma Municipal Act, 1884, be taken into consideration. He said:—"It will be in the recollection of the Council that this is a small Bill, introduced for the purpose of enabling the Municipality of Rangoon to pay its way. Their proposal was that, whereas at present they are only able to impose a house-tax at a maximum rate of 5 per cent. on the value of the property within the Municipality, they should be enabled to raise that to 10 per cent., and the only question really before the Select Committee to which the Bill was referred was whether they should be permitted to raise the house-tax to a maximum of 10 per cent., or whether any lower maximum between the figures 5 and 10 would be sufficient for the purpose. The Committee were desirous of raising the house-tax to as high a figure as they could be permitted to do, in order that the very perfect form of scavenging which I understand they have adopted might be carried out without its being necessary to impose so heavy a tax as would be necessary if that system of scavenging was to pay its own way. The Committee, however, to which the Bill was referred thought that, having regard to the fact that the existing law enabled the Municipality to impose any tax whatever which was necessary for the purpose of making the scavenging pay its own way, such a scavenging-tax ought to be imposed as would cover the whole expenditure; but, when we came to consider the other figures, it appeared that a house-tax of 8 per cent. would be insufficient to meet the rest of the general expenditure, and considering that this is after all only a temporary measure, and that the whole question of legislation with regard to the Municipalities of Burma is intended to be undertaken in the near future, the Committee thought that the Municipality of Rangoon might in the meantime be permitted to raise the tax to the 10 per cent. which they asked for, and it is not proposed to insert any lower figure. It appeared, however, that the Bill as introduced would have enabled every Municipality in Burma to raise its house-tax to 10 per cent. if they thought fit, and, as that was never intended, the only Municipality that has any difficulty in the matter so far as we know being that of Rangoon, the Committee have altered the Bill so as to confine the extended power to the Rangoon Municipality."

The Hon'ble SIR ANTONY MACDONNELL said:—My Lord, as a member of the Select Committee I wish to support what the Hon'ble Sir Alexander Miller has said in regard to the enhancement of the house-tax to 10 per cent. That percentage was agreed to because the percentage to be adopted now is a matter of a transient nature. When we have to consider the further and more

extended scheme of legislation for Rangoon, it will be open to the Council again to consider whether 10 per cent. or any lower percentage is a proper one to take. I say this because I understand that by a considerable body of opinion in the Municipal Committee of Rangoon 10 per cent. is regarded as too high. We did not consider ourselves justified in going against the recommendation of the Local Government on that point now, but the Government has full discretion to reconsider the matter when it comes before us in connexion with the more extended legislation which is impending."

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 18th October, 1894.

J. M. MACPHERSON,
Deputy Secretary to the Government of India,
Legislative Department.

SIMLA;
The 12th October, 1894.

G. C. Press, Simla.—No. 370 L. D.—12-10-94.—316.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Viceregal Lodge, Simla, on Thursday, the 18th October, 1894.

PRESENT:

His Excellency the Viceroy and Governor General of India, P.C., LL.D., G.M.S.I., G.M.I.E., *presiding.*
His Honour the Lieutenant-Governor of the Punjab, K.C.S.I.
His Excellency the Commander-in-Chief, K.C.B., G.C.I.E., V.C.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, K.C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble J. Westland, C.S.I.
The Hon'ble Sir A. P. MacDonnell, K.C.S I.
The Hon'ble Baba Khem Singh Bedi, C.I.E.

CODE OF CIVIL PROCEDURE AND PUNJAB LAWS ACT, 1872, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER presented the Preliminary Report of the Select Committee on the Bill to amend certain sections of the Code of Civil Procedure and to repeal certain sections of the Punjab Laws Act, 1872. He said:—"It is not usual in presenting a Report of a Committee to make any observations, but I think that under the circumstances of this case it is necessary for me to explain that when the Committee met they thought there was so much in the Bill that it was desirable it should come before a Committee more numerous than we were, and more strongly constituted than it could be constituted here, and, therefore, with the single exception of introducing a clause which has been introduced at the instance of the Bombay Government for future consideration by the enlarged Committee, we have practically done nothing with the Bill, and we now propose to postpone it till the Council reassembles in Calcutta."

ENGINEERS' CERTIFICATES VALIDATION BILL.

The Hon'ble MR. WESTLAND moved that the Bill to validate certain certificates granted to engineers of steam-ships be taken into consideration.

[*Mr. Westland; Sir Antony MacDonnell.*] [18TH OCTOBER,

He said:—"I explained the object of this Bill at the time I introduced it as being that of removing a disability under which certain persons who held engineers' certificates in Bombay and the steam-vessels in which they were employed had been placed by certain action inadvertently taken by the Government of Bombay.

"The Bill was referred in due course to the Government of Bombay, and has been accepted, after consideration, by that Government. They merely make a suggestion for a verbal correction, intended to meet an objection which has been raised to the original wording of the Bill; but, as my hon'ble colleague Sir Alexander Miller agrees with me in thinking that the Bill as originally drawn is clear enough upon the point in question, I have no amendment to propose to the Council."

The Motion was put and agreed to.

The Hon'ble MR. WESTLAND also moved that the Bill be passed.

The Motion was put and agreed to.

ACT V OF 1861 *(POLICE)* AMENDMENT BILL.

The Hon'ble SIR ANTONY MACDONNELL moved for leave to introduce a Bill to amend Act V of 1861 (*an Act for the Regulation of Police*). He said:—"The Bill which I wish to introduce deals, to some extent, with the internal discipline of the police-force; and to that extent it is not likely, perhaps, to give rise to any public criticism. But there are three provisions of the Bill which touch the general public more closely, and these provisions will doubtless be more fully canvassed.

"The first of these provisions is an amendment of section 15 of the existing Act. That section provides for the quartering of additional police in any tract which is declared to be in a disturbed or dangerous condition, and the charging the inhabitants thereof with the cost of such additional police-force. As the law stands, the cost must be apportioned among, and levied from, the entire population of the tract: and the amendment which I wish to propose empowers the Government to include in the assessment non-resident owners of property if, in the circumstances of the particular case, that be fair and just, and to exclude from assessment those people or classes who have not contributed to the disturbances, the cost of maintaining the additional police being levied only from the persons or classes who have caused such disturbances.

1894.] [*Sir Antony MacDonnell.*]

"The second important provision, which is an alternative course to the provision just noticed, will enable the Government to levy compensation from a disturbed locality for serious outrages committed therein, and pay it away to the persons who have been injured or to their families.

"The third provision to which I wish to call attention is the grant of licenses for processions when there is any reason to apprehend a breach of the peace if the procession were allowed to be conducted without conditions or control.

"These are important additions to the existing law, and I think that the public should have full opportunity of examining and criticising them before we proceed further to legislation. In accordance, then, with rule 20 of the Rules for the conduct of Legislative Business, I wish, with Your Lordship's permission, to postpone the discussion on the principle of the amendments until the full Council assembles in Calcutta. My object now is to have the Bill published for general information, in order that, when the time arrives for referring it to a Select Committee, I shall have, as it were, felt the pulse of public opinion, and be in a position to explain away doubts and justify the proposals, with even fuller knowledge of that opinion than I now possess."

The Motion was put and agreed to.

The Hon'ble SIR ANTONY MACDONNELL also introduced the Bill.

The Hon'ble SIR ANTONY MACDONNELL also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

BURMA BOUNDARIES ACT, 1880, AMENDMENT BILL.

The Hon'ble SIR ANTONY MACDONNELL also moved for leave to introduce a Bill to amend the Burma Boundaries Act, 1880. He said:—"The Bill is a very simple, and I think non-contentious, Bill in all respects. Under the existing Burma Boundaries Act, No. V of 1880, the only marks which a survey-officer is competent to erect are marks on the exterior boundary of the village-area or other parcel of land under survey. But the revenue-surveyors in Burma have often to deal with very large blocks of land, to the efficient measurement of which

survey-marks on interior lines are essential. In regard to these interior or sub-traverse marks, as they are technically called, it is necessary that we should have the same powers of construction and maintenance as we have regarding the exterior or traverse marks.

"Another provision of the Bill is this. At present the duty of safeguarding boundary-marks rests on the village-headman and the thugyi. It is desirable that this duty should be extended so as to cover the interior as well as the boundary marks, and it is desirable that, in regard to both classes of marks, the owner or occupier of the land on which they are erected should be placed under an obligation to maintain them in good condition. This is a mere extension to Burma of the rule which prevails generally in India.

"The only other point I need notice is that the Bill contains a definition of 'survey-mark' which was wanting in Act V of 1880."

The Motion was put and agreed to.

The Hon'ble SIR ANTONY MACDONNELL also introduced the Bill.

The Hon'ble SIR ANTONY MACDONNELL also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English and in the Burma Gazette in English and in such other languages as the Local Administration thinks fit.

The Motion was put and agreed to.

The Council adjourned *sine die*.

J. M. MACPHERSON,

SIMLA; *The 19th October, 1894.* } *Deputy Secretary to the Government of India, Legislative Department.*

G. C. Press, Simla.—No. 393 L. D.—19·10·94.—316.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 24 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Government House on Monday, the 17th December, 1894.

PRESENT:

His Excellency the Viceroy and Governor General of India, P.C., LL.D., G.M.S.I., G.M.I.E., *presiding*.

His Honour the Lieutenant-Governor of Bengal, K.C.S.I.

The Hon'ble Sir A. E. Miller, KT., Q.C.

The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.

The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.

The Hon'ble J. Westland, C.S.I.

The Hon'ble Sir A. P. MacDonnell, K.C.S.I.

The Hon'ble Fazulbhai Vishram.

The Hon'ble C. C. Stevens.

The Hon'ble Sir Luchmessur Singh, K.C.I.E., Maharaja Bahadur of Durbhanga.

The Hon'ble Gangadhar Rao Madhav Chitnavis.

The Hon'ble H. F. Clogstoun, C.S.I.

The Hon'ble P. Playfair.

INDIAN TARIFF ACT, 1894, AMENDMENT BILL.

The Hon'ble MR. WESTLAND moved for leave to introduce a Bill to amend the Indian Tariff Act, 1894. He said :—

"On the 1st of March of this year I had the honor of introducing in this Council a Bill for the renewal of the import-duties, which had been abolished in various stages from 1878 to 1882, and explained that the proposal of the Government was to levy duties, except in a few cases, of five per cent.; that Her Majesty's Government had, in view of the financial position, assented to this course, but that they were not prepared at that time to sanction the inclusion of cotton yarns or cotton fabrics among the articles declared liable to duty. The discussions which took place in this Council during the consideration

of that Bill made it evident that the exclusion of these cotton duties was a policy which was not favoured by the individual members of Your Excellency's Council, but which was, for the time at least, directed by Her Majesty's Government, who, through the mouth of Your Excellency, gave us the assurance that if, after an interval sufficient to judge of the position as affected by the new Tariff Act, the course of exchange, and other circumstances, there were no improvement, they would be prepared to receive a further representation on the subject.

"I need not recount the discussions which have since then taken place on this subject. It has been discussed at length both in the House of Lords and in the House of Commons, and the Government of India have also laid before Her Majesty's Government the ample representations which they received on the matter from various public bodies in India. Finally we received the instructions of Her Majesty's Government on the general question in the Secretary of State's Despatch of 31st May 1894, in which, repeating the undertaking given through Your Excellency on 10th March, that Her Majesty's Government were prepared, if necessity arose, to receive proposals on the subject, he laid down the economic conditions which it would be necessary to observe in any proposals we made.

"I am concerned at present only with the question of the import duties on cotton goods, the imposition of which has now been sanctioned by Her Majesty's Government: the condition which has been attached to this sanction I shall deal with when I take up the second part of the duty which to-day's list of business allots to me.

"Under the circumstances which I have stated, I imagine that the Council will require little explanation of me, in justification of the Bill I ask leave to introduce. I do not intend to anticipate the financial explanations that I shall have to give in this place three months hence. I would merely remind the Council that it was by means which were only temporarily available, that in the estimates which I produced last year the revenue was brought within about 30 lakhs of the expenditure: and that was done by taking the exchange at fourteen pence. It is only by a miracle such as we cannot hope for that we shall be able to base next year's estimate upon so favourable a rate; and, even if we did so, we would, estimating on the basis of last year's figures, have to face a deficit of a crore or a crore and a half at least. I consider it to be as certain as anything can be, that depends upon such an unstable item as exchange, that without the

aid of the cotton duties we shall not be able to present to the Council in March next such estimates as would meet with the Council's approval.

"The necessity of the income derivable from the cotton duties being thus established, it seemed to the Government to be advisable for many reasons that these duties should be introduced as soon as possible, and without waiting for the season when the Financial Estimates come before us in detail. The anticipation of these duties has already, as we are informed, caused considerable orders to be sent to England, and we learn from England also that goods are being shipped in larger quantities than usual, in order that they might arrive before the duties become leviable. To postpone legislation on the subject merely means to divert into the pockets of those importers the profit which I think they would themselves admit properly belongs to the State. There are also other economic disadvantages which arise to us, from a temporary excess of imports. I have no hesitation, therefore, in asking that we may be allowed, under the circumstances, to anticipate the financial arrangements of next year by bringing the proposed duties into effect at once. Even if we are fortunate enough not to require for the balancing of the current year's account the revenue they will bring in, yet we have the heavy deficits of the last two years to make up for, not to talk of the suspension of the famine insurance grant of the current year.

"We have taken the opportunity afforded by the introduction of the cotton duties to revise the Tariff also in some other particulars, keeping in respect of them, however, strictly within the lines of policy explained when the Tariff Bill was introduced in March last. In so far-reaching a subject, it was necessarily impossible to foresee all the difficulties and doubts that would arise in applying the provisions of the Tariff, and, though we have done our best to meet these difficulties, I am bound to admit that in some cases there has been cause for complaint. The main reason for this is that the Tariff is so drawn up as to leave, in some cases, a doubt as to whether certain articles are taxable or not. In a Tariff which has been in force for half-a-century, practice and custom have had the effect of defining pretty clearly the classification for Tariff purposes of the articles which are imported; each variation in the course of trade, each new article which has entered into the list of imports, has, as it presented itself, found its assigned place in the Tariff classification. But when a new Tariff is introduced, after twelve years' abeyance, the changes that have

intermediately taken place in the course of trade present themselves in too great numbers for immediate settlement, and give rise to differences of opinion between the Collector and the payer, or rather to cases in which the latter is not satisfied with the decision of the former.

"I am quite willing to admit that a merchant, who would pay without demur a duty which was clearly imposed upon him by the law, is reasonable in resenting the levy of the same duty when he considers it is imposed upon him only by an interpretation of the law in which he does not concur. However clear the interpretation may be to an officer who is accustomed in his daily duty to deal with questions of classification, the merchant may reasonably claim that the law itself should be set forth in terms which do not leave the question of taxation to considerations which might, even for a short time, be interpreted in one way at one customs port and in another way at another.

"The difficulties and doubts in this respect have mainly arisen out of two causes, and these I shall ask the Council to enable me to remove.

"In the first place, the schedules as they stand at present are statements by classes of the goods that are liable to duty; they make reference to the goods which are free from duty, only when it is necessary to exempt some specified item or items coming under a class which is dutiable. When, therefore, an article is presented to the Collector, the question that has to be decided is, does it, or does it not, fall within one of the specified classes; if it does not, there is no authority to tax it, and it must go free. Now, if the huge variety of articles is considered, and the fact that our Tariff specified 62 classes only, it will easily be seen that there are numerous articles which the importer at least considers do not come within any of the classes, and which he therefore claims should go free. It does not satisfy him to be told that in the trade returns, upon which the Tariff classification was based, the articles in dispute have always been taken within a specified one of these 62 classes.

"In order to remove this cause of variance, we have adopted a principle which is followed by the American Tariff and by several other Tariffs I could name. We carefully specify and define the free headings as well as the taxed ones, and then we add that all unenumerated articles have to pay the general rate of duty. The result is that the contention that some specific article does not fall within any of the Tariff classifications results,

not in letting it go free, but in subjecting it to taxation. I need not say that this course is adopted only because we believe it carries out the intention of the Legislature, when the matter was under discussion last March. A reference to the discussions in the Council will show that the principle of taxation was that everything should pay duty which there was not some special reason for exempting. This principle is obviously strictly carried out by examining and specifying what ought to be exempt, and then saying that everything else should be taxed. And in fact a mistake in this direction is easily corrected, for the Executive Government has the power of exempting anything that is by law taxable; but a mistake of the opposite kind, the accidental exemption, on a mere technical ground, of some unspecified article while other things of exactly the same character and use are taxed, creates an inequality which cannot be remedied without legislation.

"I may give one illustration of this, which, though it is not the case of an article taxed at the general rate of duty, I select because it arises in connection with the very first article in our schedules,—that of fire-arms. Somebody has invented a gun in which the explosive force is obtained by the release of highly compressed carbonic acid gas. These guns are quite deadly enough for any practical purpose, and ought for any purpose of taxation to be reckoned with fire-arms discharged in the ordinary way, but as the explosion is determined by a mechanical act, and not by combustion of any kind, the arms are not fire-arms and are chargeable with a much lower rate of duty than fire-arms.

"Or take the case of sponges: they were meant to be taxed under the classification of toilet requisites; but unfortunately sponges are used for many purposes besides application to the human body, and this gives occasion to a contention that under the existing Tariff sponges are not always taxable. A similar doubt of the opposite kind has arisen in the case of hops and certain pulses. We omitted all mention of them, with the intention of leaving them free of duty, but the question has arisen whether they are not, under the classification of 'provisions,' taxable at the rate of five per cent. under article 3.

"In these instances and in others we have made the necessary correction in the Tariff, but it is only by actual experience that we can say in how many cases in future similar difficulties will arise. Trade usages and trade nomenclature frequently create differences and difficulties in these points of detail, and the best way to remove them and prevent their interfering with the intended effect of

the law is that which we have adopted, as I have explained above, in common with the American and several other Tariffs.

"The second cause of the difficulties to which I am alluding is the indefiniteness of the lines which divide machinery which is free, articles made of iron which are taxed at one per cent., and hardware and cutlery, including ironmongery, which pays the five per cent. rate of duty. The exemption of machinery was based on the principle that it was undesirable to burden with a five per cent. duty capital employed in the productive industries of the country; but, even while the old Tariff was in force, difficulties were found in restricting the application of the exemption within its intended limits. 'Machinery' is a somewhat wide term, and it gives rise to claims for exemption of 'machines,' which is a still more indefinite and extensive term. We have met this difficulty by giving a somewhat precise definition of machinery, which will, we hope, have the effect of opening the door freely to such articles as represent what may be called the fixed capital employed in productive industries, but will at the same time prevent claims arising for exemption of articles which, though they may bear, in common parlance, the name of machines, have no right to expect entry into India without the same payment of duty which we levy upon nearly all other imported articles. The proposed definition of machinery was circulated to Chambers of Commerce, and other authorities, a short time ago, and has been slightly expanded in consequence of suggestions received.

"These are the two principal directions in which we have amended the Tariff, with the object of making its effect more clear and precise and less liable to question. We hope that the additional clearness which we have imparted to it will remove the difficulties that have arisen in its application, and facilitate and expedite the action both of the Customs officers and of the importing merchants. It will be seen that the inclusion of the free classes, and the more careful definition of the taxable ones, have resulted in increasing the number of articles from 62 to 117, while keeping, as we believe, strictly within the intentions and principle of the original Act.

"We have also, in respect of the other articles of the Tariff of March last, made some amendments in the definitions, chiefly in the direction of expressing them more clearly and removing the chances of doubt as to what they really contain.

"The valuations have also undergone a revision. We receive monthly returns of prices, which in some cases at least are sent also to the Chambers of Commerce, and on the basis of these returns we have examined the valuations in the existing Tariff. The valuations adopted are mostly based on the prices of October, care being taken that nothing special or peculiar to that month has been taken as a permanent or normal value. This revision of valuations is a function which the Executive Government have authority to discharge without special reference to the Legislature, but we have thought it best to combine the operation with the present general revision of the Tariff."

The Motion was put and agreed to.

The Hon'ble MR. WESTLAND also introduced the Bill.

The Hon'ble MR. WESTLAND also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English. He said:—"I have to explain that we have modified the usual form of this Motion in omitting the publication in the local Gazettes. The fact is that it will be necessary for me to propose to the Council that all the requisite steps be taken as soon as possible. I have taken measures that the Gazette of India in which this Tariff will be published will be amply distributed at all the customs ports, so that, so far as regards local knowledge of its provisions, publication in the local Gazettes is not absolutely necessary. The local Gazettes only appear, like our own Gazette, once a week, and, if I were to move that the Bill be published in the local Gazettes, it is quite possible that when the Council came to a full discussion of the Bill it would be found that some of these local Gazettes had not had time to publish it."

The Motion was put and agreed to.

COTTON DUTIES BILL.

The Hon'ble MR. WESTLAND also moved for leave to introduce a Bill to provide for the imposition and levy of certain duties on cotton goods. He said:—

"I have now to ask the permission of the Council to supplement the imposition of import duties on cotton goods by introducing a Bill for the levy of excise duties on certain cotton goods manufactured in India.

"I would not be dealing straightforwardly with the Council if I pretended that this measure was recommended by the Government of India on its own

merits. No Government would desire, except under the extremest stress of financial necessity, to impose a duty upon an industry so deserving of any fostering care which the Government can bestow upon it, as the cotton manufacturing industry of India. The proposal I make is therefore not made on its own merits, but as the necessary accompaniment of the fiscal measure which I have already to-day laid before the Council—a fiscal measure which we believe to be rendered necessary by the financial circumstances in which we find ourselves.

"Her Majesty's Government, representing the supreme authority in the administration of India, and following the instructions of the House of Commons, have stipulated that if we are obliged by stress of finance to impose an import duty on cotton goods, we must deprive it of a protective character by imposing an equivalent duty upon similar goods manufactured in India, to the extent to which these enter into direct competition with goods imported from the United Kingdom. I do not desire to discuss this condition—it is a decision arrived at by an authority which is as capable of pronouncing a judgment on the economic question as the Government of India is, and which has, by the constitution of the Government of India, the authority to enforce it.

"The part which the Government of India have taken in the discussion of the subject has been, in the first place, to lay before Her Majesty's Government such arguments on the subject as occur to themselves or as were communicated to them by various representative bodies in this country; and in the second place, after receiving the decision of Her Majesty's Government on the matter which they accept as a fully-instructed decision, to consider in what manner they can carry out the requirements of the House of Commons, while at the same time conserving to the utmost degree consistent with those requirements the interests of manufacturers in this country, and avoiding to the utmost possible extent all interference with the processes of manufacture and production in this country.

"The Bill which I now ask leave to introduce sets forth in legislative form the method in which we propose to carry into effect the results of our considerations.

"The first question, therefore, to which our enquiries were directed was the extent to which Manchester and Indian manufacturers compete. The details of the subject will be found in the papers laid before the Council, but generally it

may be said that below the class of yarns described as 24s to 30s, the circumstances of production are such as to give India a natural advantage over Manchester, and above that class they are such as to give Manchester a natural advantage over India. The markets for these different classes of goods, the coarser and the finer, are also to a very great extent distinct.

"Both Manchester and India confine themselves for the most part to their respective spheres of industry, and thus to only a limited extent compete with each other, their processes in each case being adapted to their own spheres and not to their competitors'. In fact, if it were not that, by the continuous advance of the Indian manufacturers in skill and in enterprise, they are beginning, by the manufacture of the higher counts, to invade what has hitherto been the province of Manchester, it might be said that the two classes of manufacture and consumption were entirely distinct.

"The only fear, therefore, that arises to Manchester is that the imposition of a duty of 5 per cent. upon Manchester goods may give such an advantage to the Indian manufacturer in respect of the finer classes of goods, as to enable him, by reason of the difference of taxation, to oust Manchester in an increasing degree from its own sphere of manufacture; and we carry out the condition of non-protection imposed upon us by subjecting to an equivalent excise duty the classes of goods which I have described as primarily belonging to the sphere of non-Indian manufacture.

"We have had some correspondence with Her Majesty's Government as to the precise point where the line should be drawn. The information of the Government of India is that practically nothing below 28s is imported from Manchester, and we, therefore, proposed to limit our tax to counts higher than 24. The Secretary of State, on the other hand, believes, from the information supplied to him, that cloth is imported into India which contains, although in combination with finer yarns, yarns of count 24; and considering Her Majesty's Government pledged to the House of Commons to insist on the avoidance of all protection, desired to make 20s the highest free count. I may explain that there is not the least difficulty in getting the information in question as regards yarns. Yarns are classified by counts, and we know that of the total of imported yarns, only 2 per mille are of count 24 or less. Moreover, as Manchester, though it has the bulk of this trade, has not the mono-

poly of it, the probabilities are that a great part of this 2 per mille represents a portion of the import trade that does not belong to Manchester at all. It is more difficult, however, to gather the exact facts regarding woven fabrics; they are not classified for trade purposes by the counts of the yarn they contain, and it requires an expert examination to decide what the counts of the yarns really are. The fact, therefore, regarding which there is this difference of information between ourselves and the Secretary of State can be solved only by an enquiry of a kind that it is not possible to undertake while a measure like the present one is known to be under consideration, and we have made therefore this arrangement, with the sanction of Her Majesty's Government, that on the first introduction of the Bill we shall fix the line at 20, but we shall take power to raise it to 24, if it is found upon enquiry that woven fabrics imported from Manchester do not, as a matter of fact, contain yarns so coarse.

"Our proposal, therefore, is to levy an excise duty upon all yarns manufactured in mills in India which are above the count of 20, power being taken to exempt up to 24. We do not touch the hand-industry; little or no yarn of the finer counts is now-a-days spun by hand, and what is spun cannot be regarded as competing in the market with mill-spun yarns. Village industry is, however, almost confined to the weaving of yarns, either imported or Indian-manufactured.

"It will be seen from the papers that our first intention was to tax imports of fabrics at 5 per cent., and to tax yarns, both imported and manufactured, at 3½ per cent., these being the rates of the former Tariff. Objection has been raised to this as containing in itself an element of protection, and we now propose to take a 5 per cent. duty all round. The difference in the operation of a 5 per cent duty upon Manchester and upon India is this. The Indian producer will pay 5 per cent. duty on the yarns, and he will have also to pay something in respect of duty on the stores consumed in manufacture. The Manchester producer has not to pay duty on these stores, but on the other hand he has to pay the duty upon that portion of the value of his fabrics which represents the cost of the conversion of yarn into cloth, and upon the charges of conveyance to India. I do not know which of the two will in this respect have the advantage; in any case the difference will be a very small one.

"My discussion of the subject will have shewn the Council that our intention is to tax the production of yarns only,—that is, those of the higher counts,—and to tax cotton fabrics only through the taxation of yarns. It has been a great object with us so to regulate our procedure as to interfere as little as possible with the processes of production. If we tax the yarns, the cotton fabrics which are woven from them will necessarily pay their due share of duty, without our having in any way to touch the weaving departments of the mills. And as regards the taxation of the yarns, the method we have adopted is that of avoiding all interference with the mills themselves and with mill management, and basing our assessments upon monthly returns of production, which we shall lay upon the mill-owners a legal obligation to render to us. We believe we can take steps to prevent incorrect returns being sent to us, and can satisfy ourselves that the returns sent us as a basis of assessment are fairly and truly compiled. The processes of manufacture are such as to require the maintenance in the mills themselves of working-records which afford ample means of testing the returns. The problem set before the manufacturer, when he is producing 20s, for example, is that of producing 16,800 yards of yarn which shall weigh one pound neither more nor less; and this exact result cannot be attained except by examining and recording the result of each process and adjusting it to a definite standard. Moreover, it must be remembered that the yarns we tax are the finest that are produced in India, and are such as can be manufactured only in mills which are thoroughly well organized and managed. If we draw the dividing line above 20s, the yarn taxed in India will be only about 20 per cent. of the whole production, and if we draw it above 24s, it will be only about 6 per cent. In either case many mills will fall entirely outside the area of taxation, as they do not produce the finer counts at all, and their work and disposal of their produce will therefore be in no way interfered with.

"We provide that yarns which are intended for export either shall not pay any duty at all, or, if they have paid it, that the full amount shall be refunded.

"As we do not propose the present measure for the sake of the revenue we intend to derive from it, we do not attempt to justify it by shewing the amount of revenue it will bring in, nor can it legitimately be attacked on the ground that the revenue is too small to warrant the steps we take. The gross revenue I expect from excise duties is only about seven lakhs, and if the dividing line is raised to 24, only about two and a half lakhs; but the revenue with

respect to which and for the raising of which the Bill is introduced, is that derived from the cotton duties as a whole. This I estimated last March at an annual sum of Rx. 1,350,000, and it would be considerably increased if based upon later figures.

"It remains for me to make some remarks on the manner in which we propose to deal with mills established outside British India. Those in Berar we need not reckon with; these territories are subject to our direct administration, and whatever law we apply to British India we can apply also to Berar.

"In Native States there are only one or two cases as yet with regard to which the question is of any practical importance, and the chief of these are the mills established in the territories of His Highness the Nizam. Our present information is that the yarns produced at these mills are consumed within the Nizam's own territories and do not enter British India at all. If that is the case, the question does not affect us, and is one for settlement by the Nizam's Government. But so far as regards this class of mills the existing law gives us ample power. We can under the Tariff Act declare the territory of any Native Chief to be foreign territory, and thereupon all imports from it become subject to the ordinary duties levied upon goods imported by sea. But to make things perfectly clear we have repeated that provision in the present Bill, and have thus taken power, even without subjecting to duty all imports from any such States, to levy the duties upon all cotton goods so imported, and, if it is necessary, to prohibit importation except by specified routes. If we are burdening our own manufacturers in order to avoid protecting them against Manchester, we shall certainly take steps to prevent the protection, against our own manufacturers, of goods manufactured outside British India."

The Motion was put and agreed to.

The Hon'ble MR. WESTLAND also introduced the Bill.

The Hon'ble Mr. PLAYFAIR said:—"I beg leave to reserve my remarks on the Bill introduced by the Hon'ble Mr. Westland until I have had an opportunity of examining it."

The Hon'ble MR. WESTLAND also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English. He said:—"I have already explained the reasons for the shortness of this Motion,

but I may state that, as a matter of fact, the mill-owners and the Chamber of Commerce of Bombay have in their possession at the present moment the Bill now laid before the Council. I have taken every possible step to keep them informed of the measures which are being taken here. I may also mention that, with Your Excellency's permission, I shall move for a Select Committee on Thursday next. The Hon'ble Mr. Playfair says that he intends to reserve his remarks until that day. It was with the intention of affording every opportunity for the examination of the Bill before discussion upon it in this Council took place that I have taken these special measures to communicate the substance of the Bill to the people interested in it in Bombay, and that I have put off for three days the Motion that the Bill should be placed before a Select Committee."

The Motion was put and agreed to.

The Council adjourned to Thursday, the 20th December, 1894.

J. M. MACPHERSON,
Offg. Secretary to the Govt. of India,
Legislative Department.

CALCUTTA;
The 17th December, 1894.

Government of India Central Printing Office.—No. 309 L. D.—18-12-94.—316.—C. H. L.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67 and 55 & 56 Vict., cap. 14).

The Council met at Government House on Thursday, the 20th December, 1894.

PRESENT:

His Excellency the Viceroy and Governor General of India, P.C., LL.D., G.M.S.I., G.M.I.E., *presiding.*
His Honour the Lieutenant-Governor of Bengal, K.C.S.I.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, K.C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble J. Westland, C.S.I.
The Hon'ble Sir A. P. MacDonnell, K.C.S.I.
The Hon'ble Fazulbhai Vishram.
The Hon'ble C. C. Stevens.
The Hon'ble A. S. Lethbridge, M.D., C.S.I.
The Hon'ble Gangadhar Rao Madhav Chitnavis.
The Hon'ble H. F. Clogstoun, C.S.I.
The Hon'ble P. Playfair.
The Hon'ble Prince Sir Jahan Kadr Meerza Muhammad Wahid Ali Bahádur, K.C.I.E.
The Hon'ble Mohiny Mohun Roy.
The Hon'ble Sir G. H. P. Evans, K.C.I.E.

NEW MEMBERS.

The Hon'ble PRINCE SIR JAHAN KADR MEERZA MUHAMMAD WAHID ALI BAHÁDUR, the Hon'ble MOHINY MOHUN ROY and the Hon'ble SIR GRIFFITH EVANS took their seats as Additional Members of Council.

INDIAN TARIFF ACT, 1894, AMENDMENT BILL.

The Hon'ble MR. WESTLAND moved that the Bill to amend the Indian Tariff Act, 1894, be referred to a Select Committee consisting of the Hon'ble Sir Alexander Miller, the Hon'ble Sir Charles Pritchard, the Hon'ble Fazulbhai

Vishram, the Hon'ble Gangadhar Rao Madhav Chitnavis, the Hon'ble Mr. Clogstoun, the Hon'ble Mr. Playfair and the Mover, with instructions to report at the next meeting of the Council.

The Hon'ble SIR GRIFFITH EVANS said:—"I am glad to see that the almost unanimous remonstrance of the Council and of the public in India has borne fruit, though late. The debateable matters in this Bill are matters of detail, and are of a character which ought to be dealt with by a Select Committee before being finally decided by this Council."

The Hon'ble MOHINY MOHUN ROY said:—"I crave permission of Your Excellency to make a few observations upon this Bill. I was not present at the reading of the Bill on Monday. I have studied the subject of Indian finance with some care and written a few articles for the *Calcutta Review* upon taxation in India. One of these articles was upon customs-revenue. It was published in the April number of the *Review* for 1889. I rejoice to find that an import-duty is re-imposed upon cotton goods. This is what I had advocated. But I regret to find that in the export tariff the heavy duty of three annas per maund is retained upon rice. I was for a low one per cent. duty for exports, and for a wide distribution of the duty, and said in my article:—

'The duty upon exports should always be less than one-half of the duty upon imports. This has always been the proportion of the two descriptions of customs-duty. The freight which imports pay are usually small compared to the heavy freight which exports have to pay. There are other economic considerations, besides, in favour of a low export-duty. The duties on both imports and exports being light, there should be very few exemptions. Bullion and coin, precious stones and pearls, horses and other living animals should be free both for imports and exports, but no other articles either of import or export. Special import-duties should be retained upon the following articles, *viz.*, arms and ammunitions, liquors, wines and spirits, salt, opium and petroleum. There should be no special export-duty upon any article. The present heavy duty of three annas per maund, equal to four or five per cent. *ad valorem*, upon rice is a highly objectionable tax. It falls chiefly upon the two provinces of Bengal and Burma, which export by far the largest quantity of rice. Wheat exported from the several provinces of India is now equal in value to the rice exports. There should be an equal duty upon all dutiable articles of export, and the duty so low that it should not be felt by the producers.'

[*The Hon'ble Member here read statements giving the quantities of raw cotton, rice, wheat, hides and skins, raw jute and oil-seeds and other seeds in 1886-87.*]

"Now the tariff is being revived, I would humbly suggest that a one per cent. export-duty be imposed upon all articles of raw produce, namely:—Rice eight millions in value in 1886 87, wheat eight millions, oil-seeds and other seeds nine, raw jute four, raw cotton thirteen, hides and skins five—total 47 millions. The revenue will not suffer. But the export-duty will be equally and fairly distributed, instead of being confined to one single article and weighing heavily, as it now does, upon the producers of rice."

The Hon'ble MR. WESTLAND said:—"I think it necessary to offer one remark with regard to the suggestion made by the hon'ble member who last spoke. I regret that it is one which I cannot in any way recommend to the Government for acceptance. There is one principle to be observed in the case of the imposition of export-duties which my hon'ble friend has somewhat overlooked. It is this, that an export-duty weights our own trade as compared with that of nations which do not impose the same export-duty. The rice duty has been consistently condemned by every writer upon Indian economics. The Government has, for a long time, been under a pledge to abolish that duty, but that pledge they have not, for financial reasons, been able to carry out. This question was under discussion some years ago when the Hon'ble General Strachey made an attack upon the Government policy in the matter of export-duties, and at that time he made the suggestion that a duty should be levied upon jute, rather than upon some of the articles which at that time were taxed. He justified that duty in the same way in which it is possible to justify our present duty on rice—namely, that it is an article in which we have a practical monopoly, in respect to which other countries do not compete with us, and in which the tax is paid by the consumer or can be made to be paid by the consumer in other countries. I think it would be impossible for the Government at the present moment to levy any tax on the export of wheat. Nothing could be more ruinous to the interests of the agricultural and mercantile communities of this country. Wheat has at the present time gone down to a price which renders it extremely difficult for the cultivator to make any profit upon it. I am told that in America, for example, as an effect of the low price of wheat, instead of exporting it, the farmers are obliged even to give it to their pigs. In this country any duty of the kind would, as I have said, be most inadvisable, and in imposing any such duty we would, in fact, be killing one of the geese that lay our golden eggs. For these reasons I could not consent to recommend to Government any alteration in the present export tariff."

The Motion was put and agreed to.

COTTON DUTIES BILL.

The Hon'ble MR. WESTLAND also moved that the Bill to provide for the Imposition and Levy of certain Duties on Cotton Goods be referred to a Select Committee consisting of the Hon'ble Sir Alexander Miller, the Hon'ble Sir Charles Pritchard, the Hon'ble Fazulbhai Vishram, the Hon'ble Gangadhar Rao Madhav Chitnavis, the Hon'ble Mr. Clogstoun, the Hon'ble Mr. Playfair and the Mover, with instructions to report at the next meeting of the Council.

The Hon'ble SIR GRIFFITH EVANS said:—"I do not intend to oppose this Bill being referred to Select Committee, but I think it necessary to explain what my position is in regard to it. The general position, as I understand it, is this. The Secretary of State for India, after a discussion in Parliament and in consultation with Her Majesty's Government in England, has come to the conclusion that an import-duty on cotton yarn and cotton fabrics of 5 per cent. will be protective in its character unless balanced by a countervailing excise on such portions of the Indian manufacture as compete with the English imports. He has, therefore, while sanctioning the introduction by the Government in India of a Bill imposing such a duty, made it a condition that the Government should at the same time introduce a Bill imposing a 5 per cent. excise-duty on the Indian manufactured cotton which is in competition with the English imports. I should like to say a word or two with regard to this subject of protective duty. A protective duty is open to two objections, one which may be raised on behalf of the general public of the country which imposes the duty—*i.e.*, that the duty benefits a certain class of manufacturers at the expense of the ordinary tax-payer; the other, which may concern the foreign manufacturer when his goods are handicapped in competition as against the Native manufacturer. In the case of completely independent States, the first objection only has to be considered by the State which contemplates imposing such a tax, but in the case of a dependency like India the second has also to be considered, and the way it works is this. The material interests of a great commercial nation like England in the East are, and must always be, mainly commercial. It was commerce which brought the English to the East, and but for commerce it is not likely that they would ever have embarked upon the gigantic task of founding or ruling this great Empire of India. Having undertaken the task originally in pursuit of commerce, they have resolved that their rule should be one of justice and fairness to the inhabitants of India. I think the manner in which they have carried out this resolve will, on the whole, meet with the

favourable verdict of posterity. They have considered that they were bound to allow the inhabitants to progress in manufactures, although that progress was sure to enable them to compete with English manufactures. But, though they have been and are willing to allow India to compete on even terms, they have not been and are not willing to allow her to compete on other than even terms. They say in effect 'you may run in the race of manufacture against us and beat us if you can, but it must be at even weights—if the weight upon us is increased, the weight upon you must be increased to the same extent. We will not consent to be handicapped if in our opinion the extra weight would give rise to any chance of our being beaten.' Now this is probably as much justice as anyone can expect in this world. It falls short of the higher altruism exhibited by Gautama in one of his many incarnations, when he met a starving tigress with cubs, and was so moved with compassion as to allow her to satisfy her hunger by eating him. This was in the Golden Age, and the like is not expected of men in this Age of Iron. No doubt England would enforce this rule on the Colonies also, but she has granted them the power of self-government. She cannot withdraw the gift, and the Colonies, rightly or wrongly, exercise their power by putting on protective duties much to the disgust of the mother-country, who cannot, however, interfere.

"But assuming that it would be impolitic on both grounds to attempt to impose a protective duty, there is a serious difference of opinion as to whether the 5 per cent. import-duty would act as a protective duty. The Indian manufacturer contends—and it appears that the Financial Member agrees with him—that the 5 per cent. import-duty will not operate as a protective duty on the grounds set out by the Bombay millowners in their very able memorial and on other grounds. If this be so, the imposition of an excise-duty of 5 per cent. on Indian manufactures is, of course, wholly unjustifiable. It is onerous, unprofitable and harassing to trade. The English manufacturers and the Secretary of State for India contest this position, and maintain that the duty will be protective, and urge that even if the competition is small now it would increase greatly if the English goods were paralysed by a 5 per cent. impost—whatever might be the motive for imposing it.

"The question is, What should we do now under the circumstances? Although the Secretary of State for India may order the introduction of Bills by the Executive Government before the Legislative Council, yet this Council

is admittedly free to reject them wholly or in part. This Council is the only body in India to which legislative powers in these matters have been delegated by Parliament. I am not an expert in these matters, and my opinion as such cannot carry any weight; but I may say without going into details, which I leave to others more skilled, that, using such intelligence as I possess upon the materials before us, I should come to the conclusion that no sufficient case had been made out for the imposition of this excise. If, therefore, we were dealing with this proposal solely upon its merits, I should divide the Council and vote against the Bill being referred to a Select Committee. But we are not dealing with abstract right, but must consider as practical men what is best to be done under the circumstances. Considering the previous history of the question, and considering the recent discussion in Parliament, and the pledges given then by the Secretary of State for India as a member of Her Majesty's Government, I do not think it is practically open to him at present to sanction an import-duty on cotton without a countervailing excise of some sort. The financial necessity for the imposition of the import-duties is imperative. As we must have these duties and cannot, under present circumstances, have them without a countervailing excise of some sort, I do not think it wise to oppose the Bill being referred to a Select Committee.

"But as to the details of the Bill, and as to whether the limit should be 20s or 24s, I hold myself quite free and in no way bound by the limits which the Secretary of State has telegraphed, and which are consequently incorporated in the Bill. Should the majority of the Members of the Council differ from the Secretary of State on these matters, and alter the limits to 24s, I for one will be perfectly ready to risk the chance of the Secretary of State for India exercising the only constitutional right he has with regard to the proceedings of this Council by vetoing the Bill. It would be a step which he would find it hard to take, and impossible to justify; but this is a matter for consideration at a later stage of the Bill. I mention it merely to show that I think different considerations will apply to the details of the Bill, even those ordered by the Secretary of State for India, and also in order to define my position, so that I may not hereafter be accused of inconsistency in bowing to the decision of the Secretary of State in the one case and refusing to do so in the other."

The Hon'ble MOHINY MOHUN ROY said:—"I have read the very candid statement made by the hon'ble member in charge. I have no hope that the Bill

will be withdrawn, or that any large modification will be made in it. But I consider it my duty, as one of Your Excellency's Counsellors, to submit for your consideration what we think of it. The duty stood at 5 per cent. from 1859 to 1864. It was raised to 7½ per cent. by Act XXIII of 1864. It was reduced to 5 per cent. by Act XVI of 1875. This was the beginning of the end, and the end came in 1882, when, by Act XI of 1882, the import-duty was wholly repealed, together with export-duties upon divers articles. How the reduction and repeal of the import-duty affected the revenue may be judged from the following figures:—In 1874-75, customs-revenue was £1,800,000, from 1875-76 to 1881-82 it fluctuated between £1,700,000 and £1,500,000. In 1881-82 it was only £400,000. During the long period from 1859 to 1882 there was no countervailing excise. Only once the question seems to have been raised; it was in the year 1861 when the Hon'ble Samuel Laing, the Finance Member, disposed of it as follows.

"I read from *Calcutta Review* of 1889, page 325. The Hon'ble Samuel Laing says (Financial Statement, April 27th, 1861):—

'The principle of free trade is to impose taxes for the purposes of revenue only, and if yarn be a fit subject for taxation, there ought to be an excise on the Native manufacture, equal to the customs-duty on the import article, unless the latter be so small in amount that it would be palpably not worth while to establish a countervailing system of excise. With a 5 per cent. import-duty this might be the case, but, at any higher rate, untaxed Native yarn would manifestly be a protected article.'

"This seems to be the true exposition of the principles of free trade. If an import-duty be moderate, not exceeding 5 per cent. *ad valorem*, and imposed *bonâ fide* for purposes of revenue and not for the purpose of protecting an article of home produce, it is not contrary to the principles of free trade. With reference to the repeal of the cotton-duties, Sir Richard Garth in his *Few Plain Truths about India* says:—

'Of course we all know the true reason for that measure. We all know that it was pressure put upon England by the Lancashire cotton-spinners, although the pretext assigned for it was the plausible one of free trade. But what have we to say with regard to gold and silver manufactures? England's manufactures of that kind have long been admitted into India duty-free, while similar Indian manufactures are still subject in England to a heavy import-duty. Let us hope, from what we hear, that this injustice may soon be discontinued; but it has lasted long enough to make India doubt the sincerity of England's free-trade principles. And what have we to say to the Indian tea industry? No

men in the world have worked harder, or under greater difficulties, to establish their position than the tea-planters in India. What has England done to aid those men? Have we given them the benefit of our vaunted free-trade principles? Although tea is one of the necessaries of life, and many people would say one of the special necessities of the poor, Indian tea is now paying a duty to England of six pence per pound, amounting annually, I believe, to upwards of two millions sterling. Is this free-trade? Does the duty upon Indian coffee or Indian rice savour of free-trade?'

"Sir Richard Garth's notions of free-trade appear to be somewhat hazy. Subjecting the gold and silver manufactures of India to a heavy import-duty is, no doubt, contrary to its principles, because it is protective of the same articles of English manufacture. But a heavy tax upon tea or other necessity of the poor has nothing to do with it, because England does not grow any tea which such a tax is likely to protect. It seems that even foreign wheat or other corn may be heavily taxed in England without contravening the principles of free-trade, provided that there be a countervailing excise on the British produce. I apprehend the doctrine of free-trade to be this, that no Government ought to impose a heavy duty upon a foreign article so as to favour and foster the producers of that article in the country, and by keeping up its price to make it profitable to them to produce it. The heavy duty falls indirectly upon the consumers. They may make a grievance of it, and complain that they are made to pay a higher price for the article than is necessary in order that the producers of the home article may thrive. The logical consequences of this doctrine are that every industry which cannot stand foreign competition must perish. To adopt this principle in a rich country, where the wages of labour are high, would seem to be questionable wisdom. For, if this principle were fully acted upon, most of the industries in England must succumb in time to foreign competition. But there is this peculiarity in the political principles of that country, that they are always subordinate to party considerations.

"And again:—

'An import-duty at 2½ per cent. upon the above articles which are now free under Lord Ripon's Act would produce £1,314,353, a sum very nearly equal to the loss of customs-revenue caused by that Act. If it be necessary for the purposes of the revenue to raise the duty hereafter to 5 per cent., it can be very easily done. To appease Manchester, it will be necessary to impose a 2½ per cent. excise upon the cotton goods manufactured by our mills. There is no competition. There never was any between the Manchester goods and cloth made by weavers. The two articles are quite distinct from each other. The excise will, therefore, be limited to machine-made cloth, the produce of

our cotton mills, and to such portion of it as is consumed in the country. A large portion is exported to China and other countries which will pay an export-duty instead. There is an impression that the assessment of excise will be a matter of some difficulty. Our financiers say, how can we re-impose the import-duties without a corresponding excise upon the produce of our cotton mills? They seem to consider this as an insuperable objection. But there does not appear to me to be anything formidable in it. If for the re-imposition of the import-duties it be necessary to have an excise, let us have it by all means. It will be limited, for the reasons stated above, to such portion of the produce of our cotton mills as is sold to country dealers for home consumption. The mills are few in number. There will be no great difficulty in ascertaining the quantity and value of the exciseable produce from the books of the firms'

"I would humbly suggest—

"First, that the excise should be only 2½ per cent., or much lower than the import-duty.

"The import-duty may be divided into two parts—one-half or 2½ per cent. imposed *bonâ fide* for purposes of revenue. There should be no countervailing excise for this part.

"The other half or 2½ per cent. may operate as a protection, and we may have an equivalent excise for it.

"Secondly, the process for ascertaining the produce of the Indian mills and such portion thereof as is used for home consumption should be simple and not inquisitorial and harassing.

"Returns made by millowners, as in the case of income-tax, should ordinarily be taken as sufficient."

The Hon'ble MR. PLAYFAIR said:—"My Lord, while the necessity for further taxation upon the people of this country for the purposes of the revenue of the State is greatly to be deplored, it will be hailed as a matter of public satisfaction that Your Excellency's Government has determined to liberate itself from the illogical position in which it was found last March, by now extending the tariff of imports to all classes of goods, including cotton fabrics and yarns. While the public feeling was very deep and pronounced against the exclusion of cotton goods from the Tariff Act, it was generally felt and admitted that the responsibility of that decision did not rest wholly with Your Excellency's Council. The satisfaction will be all the greater that, for the present at all events,

it removes from the public mind the fear of a new resort to that most objectionable financial device, so far as a country like India is concerned—direct taxation. While the straightforward statement which has been made by the hon'ble member in charge of the Bill cannot fail to be appreciated both within and without this Council Chamber, it will be a disappointment that the Government of India has been obliged to associate with this import-duty a countervailing excise on local cotton manufactures. I have found no desire, my Lord, on the part of those directly interested in the manufacture of cotton goods in this country, nor of any section of the community, to bring about a protective tariff. The proposed excise will in itself excite prejudice by what it may seem to lead to as well as by its actual provisions. In itself it will be regarded as pernicious, or, to take the mildest view, not promotive of revenue, or economy, and it must be admitted that the smaller the benefit to the revenue the more forcible is the enunciation of the principle upon which the Government is acting. As a principle it will bring into prominence the overpowering influence of an authority which, if exercised without regard to the immediate interests of India, may take away from this Council all independence and its representative character. It will be assumed—indeed it has already been assumed—that India is not to be allowed to develop any industrial enterprise if that enterprise is likely to compete with an English industry. Nor will the consistency of the principle be appreciated by the people of this country that it should be reasonable and proper for the British Government to realise a customs-duty on India's product—tea, amounting to £2,000,000 sterling per annum, while India may not be permitted to have freedom in the production of her cotton fabrics, which may result in a possible annual pecuniary benefit amounting to £8,000 only. I have received from the Secretary of the Bengal Chamber of Commerce a copy of a resolution passed at a special meeting of the Committee held on Tuesday last, which reads as follows:—

'The Committee of the Chamber of Commerce protest against an excise-duty, not resorted to on its own merits, being levied on Indian goods merely as the result of a decision come to by an authority which, as alleged by the Financial Member of Government, has by the constitution of the Government of India the power to enforce that decision.'

"Time having afforded the opportunity for a more deliberate investigation of the whole question since the passing of the Tariff Act in March last, it has been shown by those more immediately interested in the manufacture of cotton

goods in this country that the views held by some of the members of this Council were correct, and that the imposition of customs-duties upon what are known as Manchester goods would not in the circumstances be protective of the local industry, for the reason that Lancashire does not now attempt to manufacture, for export to this country, the class of goods produced by Indian mills. The very able letter addressed to Your Excellency's Government by the Secretary to the Millowners Association of Bombay, dated 10th September of this year, dispels the phantom of protection. It is clearly shown in that communication that India does not enter into competition with Lancashire, nor can Lancashire compete with India, the position now being that English spinners have confined their attention to what is to them the more profitable production of fine qualities of yarns manufactured from a quality of cotton superior to the supplies obtainable in this country, and that, combining therewith the advantages of highly skilled labour, and of climate, Lancashire is able to defy competition in these manufactures. It has also been shown that Indian machinery, on the other hand, can be more profitably employed on yarns of a low count, made from the short staple cotton of the country. A careful study of the question has revealed the fact that the production of cotton goods of the world has proceeded on perfectly natural lines, and that since the subject was reviewed by this Council twelve years ago Lancashire has confined her attention to the production of high class goods, leaving India to supply her own wants in the manufacture of goods of low quality. So pronounced has been the change in England to the manufacture of a finer class of goods only, that the export from Bombay to the United Kingdom of the short stapled Indian cotton has fallen from 62½ per cent. of the total quantity of cotton exported twenty years ago, to the insignificant figure of 2½ per cent. during the past year. That is to say, while in the year 1873-74 the exports of Indian cotton from Bombay to the United Kingdom amounted to 821,000 bales, the off-take for the United Kingdom during the past year was only 49,000 bales. During the same period the annual consumption of the Indian mills has risen from 83,000 bales to 731,000 bales, while the exports of Indian cotton to the Continent have advanced from 371,000 bales to 860,000 bales, a fact to which I would direct attention as being of considerable significance. In short, India, the Continent of Europe, and more recently Japan, have become the spinners of the short staple cotton which they manufacture into the coarser fabrics required by the poorer classes in the East. These circumstances, I presume, were not known to my hon'ble friend the member for Madras when

in March last he criticised the proposed imposition of customs-duties upon cotton goods as protective in its character and therefore inadmissible. The resolution of the House of Commons of the 11th July, 1877, calling for the repeal of customs-duties on cotton goods, upon which the Secretary of State founds his action, was also based on the supposition that such duties would be protective and therefore contrary to sound commercial policy. I think I may claim that the altered position of the trade which has now been demonstrated does away with any force there might have been in that resolution. Statistics show that 94 per cent. of Indian spinnings represent counts of yarn under No. 24s; the remaining 6 per cent. represent yarns ranging from 24s to 40s. The latter is an infinitesimal portion of the entire production, and, even if such goods enter into competition with Lancashire manufactures, there appears to be no reason to believe that a moderate import-duty, unaccompanied by a countervailing excise, would bring with it an increase in the production of the finer qualities in this country. The whole experience of the manufacturers in India is that it does not pay to make other than low count yarns from the raw material ready to their hand. Four-fifths of the Indian production is exported to the China and Japan markets, the remainder is worked up for the most part on hand-looms, giving employment and a livelihood to many thousands of poor weavers all over India. The proposal, therefore, to levy a countervailing excise-duty upon the very small quantity of the finer counts of Indian yarn coming into a possible competition with Lancashire, is one that will never commend itself to public approval. It will be admitted that an excise-duty is indefensible if the revenue produced is not commensurate with the cost of collection. I assume, my Lord, that productiveness, equity and economy, both with regard to the cost of collection and the loss imposed on the community, are ends to be desired in connection with the imposition of taxation, and this ideal the present proposal of an excise-duty is not likely to realise. It has been estimated by the millowners of Bombay that the total value of yarn produced by all Indian mills amounts to about Rs. 200 lakhs; deducting from this the value of production in Native States, estimated at Rs. 42 lakhs, there remains Rs. 1,158 lakhs, 6 per cent. of which, representing the finer counts, would be equal to Rs. 69½ lakhs. Deducting therefrom 6 per cent. of the value of cottons exported which would become entitled to a drawback, there remains the sum of 32 lakhs of rupees for excise-duty, 5 per cent. of which would amount to the very trifling sum of Rs. 1,60,000. This forecast of income given by Indian millowners is somewhat less than the estimate of

revenue made by the Hon'ble Member for Finance, placed by him at Rs. 2½ lakhs, and I presuppose that on further investigation the Government of India will find it equitable to exclude from the operation of excise local-made yarns of counts less than 24s. From the income of Rs. 1,60,000 the cost of collection has to be taken before the net value of the tax can be ascertained. It is therefore evident that it will not be a productive tax economically levied, while it will fail in equity, being inquisitorial in its character and therefore a harassment to trade. In short, it will not secure the high return that has been laid down as a necessary accompaniment in justification for the imposition of so vexatious a system as the excise.

"There is another aspect of the question to which I would respectfully invite the attention of the members of Your Excellency's Council. An examination of the profits realised by the Indian power-loom manufacturers will show that the trade is not a particularly remunerative one, and that the competition which has of late years arisen between Bombay and Japan, and which is now growing in importance, is not likely to render the position of Indian manufacturers more easy in the future. During the past ten years the Japanese have made large strides in the production of the quality of goods turned out by Indian mills, so much so, that not only have the exports from India and the United Kingdom to Japan been greatly reduced, but Japanese manufacturers have entered into serious competition with British and Indian cottons in the Chinese market. The report on the foreign trade of Japan by Her Majesty's Consul shows that the decrease in imported yarns during last year has been most marked in the Bombay yarns with which Japanese-made yarns, exported to China, compete more actively and effectively than with the higher grades from Lancashire; and with the continued development of spinning in Japan under the highly favourable conditions under which this industry is now conducted and is likely to continue to be pursued, there is every prospect, not only of the entire disappearance of Bombay yarns from the Japanese market, but even of their ultimate expulsion from the markets of China. This, Her Majesty's Consul remarks, is the outcome of the immense advantages obtained by Japan in having machinery of the best and latest kind and a plentiful supply of cheap labour, extremely cheap fuel, and no factory regulations, the operatives being permitted, if they chose and are able, to work from twelve to fourteen hours a day. The position, therefore, may be this, that India's export trade in cotton yarns may diminish without the prospect of locally expanding the sale of the coarser yarns;

and with the impossibility of competing successfully with Lancashire in the production of the higher counts, the manufacturing industry may languish to the detriment of the grower as well as of the spinner of Indian cotton.

"My Lord, looking to the interests at stake, and the grave political issues involved, I have gone further into this matter than otherwise I should have considered necessary, but it is absolutely necessary to impose an import-duty on cotton goods, and as the Government is precluded by orders from England from introducing a Bill for that purpose, without also introducing a Bill imposing a countervailing excise, I shall not ask Your Excellency to take a division on the question whether this Bill be referred to a Select Committee."

The Hon'ble MR. CLOGSTOUN said:—"The hon'ble member who has just spoken has referred to my objection last March to the imposition of duties on cotton goods as being protective. I welcome the Bill which has now been laid on the table, and which with even-handed justice both to the people of England and of India removes from these duties every atom of protection."

The Hon'ble FAZULBHAI VISHRAM said:—"My Lord, the Government of India is to be congratulated in having at last succeeded in obtaining sanction for the re-imposition of the cotton-duties. The necessity and justice of the measure were so fully discussed in Council on the former occasion that it is unnecessary to say more about it, though we cannot help regretting the loss of revenue and the dislocation of trade—not to speak of other mischievous consequences—that would have been avoided if Indian interests had not been considered in England of less importance than those of Lancashire.

"But the condition which is attached to this tardy concession of justice minimises the grace of the act. I may say at once that, subject to the qualifications I shall state, I do not wish to oppose the measure for the imposition of the countervailing excise on cotton goods manufactured in India. The position I take up now is the position I assumed when I had the honour of addressing Your Lordship's Council last. The remarks I made then seem to have been somewhat misapprehended in certain quarters, and I therefore beg Your Lordship's permission to quote what I said:—

'As regards the demand for a countervailing excise-duty upon cotton goods manufactured in India, had there been any parity between the goods upon which we suggest a duty should be imposed and the goods manufactured in India, and had even the levying of such an excise-duty been practicable, the suggestion would be unworthy of the greatest

nation of the world towards its almost bankrupt dependency. In order, however, to do away with a wrong to the country which results in the appropriation of the Famine Grant and other items ordinarily applicable for the improvement of provincial administration, I, for one, speaking as a millowner, would be willing to support the levying of an excise-duty on cotton goods manufactured in India, assuming, of course, that such an impost can be practically levied without injustice and serious trouble.'

"My Lord, I deprecate most strongly—as strongly as anybody else—the necessity which compels Your Excellency's Government to impose, against its own inclination and considered judgment, a tax which no doubt will more or less cripple the industrial development of this country. It is a matter for regret that the idea of protection, which, speaking with all respect, I am bound to characterise as chimerical, should have induced the authorities in England to hamper the discretion of the Government of India in this question. I ventured to state, in the course of the debates on the Tariff Act, that there was very little parity between cotton goods and cotton yarns manufactured in India, and those imported from England, that even if an excise-duty was considered desirable there would be great difficulty in levying the impost. From the speech of my hon'ble friend the Finance Member I understand that all these considerations, which the Government of India as the custodians of the interests of this country must have laid fully and clearly before the Secretary of State, have been put aside. I also gathered that the sanction for the re-imposition of the cotton-duties is based upon the condition of introducing a countervailing excise impost. That being so, in accordance with the promise I ventured to make in Council last March, I give my adhesion to the principle of the Bill. At the same time, I beg to enter an emphatic protest against the proposal to make counts lower than 24 excisable. The Hon'ble Finance Member himself seems to appreciate the inexpediency of imposing a tax upon these low counts. As a matter of fact, counts below 24 (or even 28) do not enter into competition with imported yarns, and to impose a duty upon yarns below that count would, in my opinion, have the effect of materially crippling an industry which every statesman interested in the economic development of the country would endeavour to promote to the best of his abilities. It will not only cripple that industry, but will throw out of employ a large number of people now engaged in the manufacture of cloth. The countervailing duty would be comparatively harmless if Government were to exempt the country's production up to at least 24s counts instead of 20s as it now proposes to do. It will even then mean a tax on 6 per cent. of the Indian outturn. Over 20s counts it will come to about

20 per cent., but when it is borne in mind that the imports from England contain only about 1 per cent. of low counts below 24s or rather 2 per mille as the Hon'ble Mr. Westland stated on Monday last, it seems to me that it would be disastrous to the cotton industry of India to impose an excise-duty on counts below 24s. For these reasons I would strongly urge upon Government the desirability of placing the excisable limit at 24s instead of 20s. I feel that in saying these words I am to a certain extent running counter to the feelings and wishes of most of the millowners in my part of the world, as may be seen from the powerful memorial and the telegram from the Bombay Millowners Association circulated to us last night; besides which some telegrams have been addressed to me direct objecting to the excise-duty *in toto*, but a strong sense of duty and the conviction that the act of justice which has been accorded to this country can only attain fruction upon the condition that a countervailing duty should be levied upon Indian manufactured goods impels me to give my assent to the proposed measure. At the same time, I feel impelled to urge upon Government the consideration that, in imposing the duty in question, they should not go beyond the necessity of the case, and not do what may prove to be disastrous to an industry from which great results are expected to the prosperity of the country, and which besides has already undergone serious dislocation in consequence of the recent currency legislation and the imposition of duty on silver and on mill stores. It must also be remembered that a duty of 5 per cent. means a charge of nearly half an anna per pound when such a hue-and-cry is raging against the agent's commission of a quarter of an anna per pound of production. It is a serious burden on the poor of the country who use the coarse cloth which is manufactured from yarns below 24s. I appeal, therefore, to the Hon'ble Finance Member to exclude from taxation all counts below 24s, which cannot possibly compete with English yarns, instead of merely reserving a power to do so in future. Considering the facts that stand uncontradicted and the admitted circumstances of the goods manufactured in India and imported from England, such reservation, to say the least, is meaningless."

The Hon'ble MR. WESTLAND said:—"I cannot help thinking that the Government is placed in some difficulty in defending the provisions of a Bill which they have professedly brought forward as imposed upon them by conditions required by the Secretary of State and not by conditions which they themselves entirely, or independently, approve of. Our projected legislation was based upon our financial necessities, and our financial necessities are met by the

imposition of duties upon imported yarns. So far as we were concerned, and so far as the object with which we impose these duties was concerned, we would have been satisfied with these duties on imported cottons. I freely admit that it is because the Secretary of State or rather Her Majesty's Ministers have laid upon us the condition of accompanying that measure with a measure for excise-duties, that we have brought forward this Bill; and, as I stated last Monday, I did not discuss it then on its merits, but simply stated that the decision was that of the Secretary of State; and I promised to lay, and did lay, upon the Council table the discussions of the subject which had passed between us and the Secretary of State. I am, therefore, of necessity obliged to state to the Council that this measure is recommended to us by superior orders and by orders which we are obliged to obey. In a paper which has been placed in my hands since I entered this room, I observe that the Chamber of Commerce have passed a resolution in which they say they object to, and protest against, the present taxation, because it has not been resorted to on its own merits, the duties having been levied merely as the result of the decision come to by the Secretary of State and Her Majesty's Ministers. I think that is an unfair statement of the case. If I had told the Council that those were the orders of the Secretary of State, and that it was the business of the Council to carry them out, that resolution would have been a just one. But I placed before the Council the full reasons which have recommended this measure to the Secretary of State, and if this measure is to be opposed, it ought to be opposed with reference to those reasons, and not on the ground that it is merely the result of the decision come to by the Secretary of State.

"Nor, as regards the position of this Council, am I at all at one with my hon'ble friend Sir Griffith Evans. He remarked that when the Legislative Council meets here we are at liberty to look at the matter from a purely independent point of view. That may be the case with members of the Council who are not also members of the Government, but I do not know of any foundation for the theory that, when Your Excellency calls together the additional members of Council to advise the Government of India, the Government thereby acquires an authority which in other respects it does not possess. The orders of the Secretary of State, though they may not be a sufficient excuse for the additional members of this Council voting against what is recommended to us, yet are sufficient for us who are members of the Executive Council, and who exercise our power not by any authority of our own or in our own name, but in the name

of Her Majesty. Her Majesty's Ministers have considered the present subject, and, so far as we know, with the fullest information before them. Our duty has been to lay before them all the facts within our knowledge, and we have also laid before them all the arguments which we could bring to bear on the question. I cannot feel that we have in this respect in any way fallen short of our duty. We have stated the matter as fully as possible, and Her Majesty's Government have had before them a complete case before they pronounced their judgment. The Hon'ble Sir Griffith Evans has stated in words, which I am ready to accept as my own, how the problem presented itself to them. It is clear from his statement there are two sides to that problem. The fact that the Secretary of State has not decided altogether in favour of the proposals placed before him is no evidence that he has shut his eyes to Indian interests and discussed the matter from a purely English point of view. I think it is a matter for regret that in one of the papers, which has not yet been placed before the Council, but which is ready to be presented, a complaint to this effect is made against the Secretary of State. I do not think it is fair to take that position. I think the Secretary of State has acted throughout the matter with as much consideration as we could expect—with even more consideration than many of our public critics did expect. In March last he gave us a pledge that, if necessary, he would allow us to take into consideration the question of imposing the cotton-duties. He has completely fulfilled that pledge, and our hands are now free to do what last March he said he would under certain circumstances permit us to do. On the question of excise he has noted all the objections which have been placed before him. Almost every objectionable feature in the excise-duty has been eliminated. We have not a general excise-duty, but an excise-duty strictly limited to those counts which enter into direct competition with Manchester, and in thus limiting the duty he has laid down a principle which may very well be accepted as fair between the two contending interests. The only question of difference which arises is the precise point at which that principle shall begin to apply or cease to apply. It is on that point mainly that objections have been made to this Bill. We are told that counts below 24 are not competitive, and therefore ought upon this principle to go untaxed. The information given to us on that subject by Mr. Playfair is of value, but a great part of it was already before the Secretary of State, and he has so far met our views as to indicate that the question is not closed, and that it may be possible for him, after fuller enquiry on the subject, to exempt those counts although it is at present proposed to tax them. I think there is,

therefore, no ground for alleging that the Secretary of State has not held the scales fairly as between English and Indian interests, and I commend the measure to the Council not merely on the allegation that the Secretary of State has laid upon us the obligation to impose it, but because from the merits of the discussion, and upon the facts as shown in the papers before the Council, it may fairly be accepted that the Secretary of State has done equal justice between two opposing interests, and that the measure he has imposed upon us bears upon its face the evidence of due consideration of our claims."

The Motion was put and agreed to.

The Council adjourned to Thursday, the 27th December, 1894.

J. M. MACPHERSON,
Offg. Secy. to the Govt. of India,
Legislative Department.

CALCUTTA;
The 22nd December, 1894.

Government of India Central Printing Office.—No. 321 L. D.—31-12-94.—316.—E. H.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Government House on Thursday, the 27th December, 1894.

PRESENT:

His Excellency the Viceroy and Governor General of India, P.C., LL.D., G.M.S.I., G.M.I.E., *presiding.*

His Honour the Lieutenant-Governor of Bengal, K.C.S.I.

His Excellency the Commander-in-Chief, K.C.B., G.C.I.E., V.C.

The Hon'ble Sir A. E. Miller, KT., Q.C.

The Hon'ble Lieutenant-General Sir H. Brackenbury, K.C.B., R.A.

The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.

The Hon'ble J. Westland, C.S.I.

The Hon'ble Sir A. P. MacDonnell, K.C.S.I.

The Hon'ble Fazulbhai Vishram.

The Hon'ble C. C. Stevens.

The Hon'ble A. S. Lethbridge, M.D., C.S.I.

The Hon'ble Sir Luchmessur Singh, K.C.I.E., Mahárájá Bahádur of Durbhanga.

The Hon'ble Baba Khem Singh Bedi, C.I.E.

The Hon'ble P. M. Mehta, M.A., C.I.E.

The Hon'ble Gangadhar Rao Madhav Chitnavis.

The Hon'ble H. F. Clogstoun, C.S.I.

The Hon'ble P. Playfair.

The Hon'ble Prince Sir Jahan Kadr Meerza Muhammad Wahid Ali Bahádur, K.C.I.E.

The Hon'ble Mohiny Mohun Roy.

The Hon'ble Sir G. H. P. Evans, K.C.I.E.

The Hon'ble F. W. R. Fryer, C.S.I.

NEW MEMBER.

The Hon'ble MR. FRYER took his seat as an additional Member of Council.

INDIAN TARIFF ACT, 1894, AMENDMENT BILL.

The Hon'ble MR. WESTLAND presented the Report of the Select Committee on the Bill to amend the Indian Tariff Act, 1894. He said:—"As it

is my intention presently to move that the Rules of Business be suspended in order that the Select Committee's Report be taken into consideration, I ask Your Excellency's permission to detain the Council for a few moments in order to explain the alterations which the Committee have made in the Bill as first introduced. The first of these occurs in connection with unmanufactured tobacco and follows a recommendation submitted to us by the Government of Madras. The Government of Madras represented that a large trade existed in the Presidency in the import of unmanufactured tobacco which was combined with Indian tobacco and afterwards exported as manufactured tobacco. A reference to the trade returns showed us that the greater part of the unmanufactured tobacco which came to India came to Madras, and that the greater part of the manufactured tobacco which left India was also exported from that Presidency. We considered therefore that the contention of the Government of Madras was a just one, that any import-duty levied on this unmanufactured tobacco was practically an export-duty on the manufactures of Madras. For that reason the Select Committee propose now that unmanufactured tobacco should go free. The amount is extremely small. I think it is only about $3\frac{1}{2}$ or 4 lakhs of rupees worth.

"The second point which the Select Committee took up was the question of the definition of machinery.

"We have carefully considered this question and I may mention to the Council the point of view from which, in the Bill as now framed, we have dealt with the subject, especially as it involves certain considerations which relate generally to the question of customs taxation.

"The principle of the Bill, as has been so often said, is that of levying a general import-duty of 5 per cent. If the rate were not only general but universal, the working of the tariff would be easy, and, as a matter of fact, the difficulties which arise in applying a tariff arise almost entirely out of the exemptions. The exemptions are the peculiarities which we have carefully to hedge round, so as to prevent their being extended beyond the grounds upon which they are based.

"Now, the question may fairly be asked, If we exempt the large and costly machinery of wealthy companies, is it not inconsistent to continue to tax the small machines used by workers in their own trades? But the principle on which the exemption of machinery is justified is this: looking to the fact that there

is a certain amount of capital which is seeking investment in some productive line of business, we want to attract that capital to those lines of business in which India is interested, or, at any rate, to prevent it being discouraged by the weight of any initial taxation. We therefore proclaim this exemption in their favour, and we consider ourselves compensated by the fact that they will add to the production of the country, which eventually pays its dues to us in some shape or other.

"Now, this ground of exemption, whether it be a good one or a bad one, does not apply to the small producers of the country; there is in their case no new capital to attract in the same sense. They may or may not invest their savings in labour-saving machines, but at least they do not require the enticement of an exemption from taxation to determine the precise line in which they shall invest their money, if they invest it at all.

"The operation may look at first sight like taxing the poorer and exempting the richer. But this is a question that unfortunately arises in every individual case touched by the customs-duty. In each case, taken by itself, it may be urged that it is hard that the burden of tax should be imposed. It is hard lines that the village carpenter should be unable to get his tools unweighted by a tax: it is hard lines that an old woman should not be able to get a warm garment without having a duty added on to its price. There is no answer to these arguments except to say that the money is absolutely required for the purposes of the administration, and that we cannot admit exemptions which are based upon the mere ground that the people who pay the tax would have somewhat fuller pockets if they did not pay it. You cannot work an import tariff on eleemosynary principles, and your exemptions must be based on some other ground than the mere hardship of having to pay the tax.

"The exemption of machinery I base upon the economic ground I have stated, and I would rather reconsider the question of its exemption than admit a corresponding claim in the case of the innumerable other interests which might argue that they have as much claim to consideration as wealthy mill-owners and industrial companies. The comparative estimation of claims to consideration must to my mind be based upon economic grounds, and not on questions of comparative ability to meet the tax-collector's demands.

"These remarks will explain the general scheme of our definition of machinery; and I have only further to remark with reference to it that what we sought

was not a scientific definition of machinery, as such, but a definition which would as accurately as possible include the kind of articles which on the grounds I have stated we proposed to exempt, and could not be stretched so as to include others to which those grounds do not apply. We want a working definition for our customs-houses, and not merely one that will pass a dialectic scrutiny.

"We had some discussion over the question of component parts, with reference to which more than one suggestion was made to us; and objection has been taken especially to the limitation expressed in the words 'which are not adapted for any other purpose'.

"Now, I admit there is a certain difficulty in defining exactly what is a component part of machinery and what is not. It is easy to see that what are ordinarily classed as 'renewals' and 'spares'—duplicates of those parts of a machine which wear out most rapidly—are component parts. It is easy also, I take it, to see that nuts and bolts are not component parts except when they are actually in their place in the machine, or at least are not separately imported. But at intermediate stages between these there may be some difficulty. A cog-wheel, for example, may be imported for the particular purpose of being fitted into a particular part of a machine ready for it, or it may be imported without reference to any particular purpose, and simply as hardware. I cannot help thinking that the circumstances of importation are in such cases a guide to the Customs Collector; and I do not know any better way of indicating the test than that of its being, owing to the special shape, adapted for the particular purposes and not for general use for miscellaneous purposes. Again, there are articles which may be described as parts of machinery, which are perpetually being used up in its working and requiring continual replacement. Take, for example, asbestos packing; there is no more reason why that should be exempt merely because it is used for machinery than for the exemption of lubricating oil. The principles on which we base the exemption of machinery do not apply to what may be called the stores used up in its working.

"It is not possible to work a tariff upon the principle that the same article may be taxed, or may be exempt, according to the purpose which the particular importer has in view. Wire gauze, for example, is used for a hundred different purposes. We cannot a low a paper manufacturer to claim an exemp-

tion for his importation on the ground that he requires it for the working of his paper machines, and tell all other importers that because they are not paper manufacturers they must pay duty. It is not therefore the mere fact that an article is to be used with, or fitted into, a place in a machine that gives it its claim to exemption, but the fact that in ordinary practice that and no other is the purpose for which the article is imported and used; and that the article is such and of such special character that on its importation it may be at once presumed that use as part of an exempted piece of machinery is the purpose for which it is required.

"We have considered all the suggestions that have been made to us in respect of these definitions and we have adopted several of them, but some of them we considered to go too far, and to be framed on such a principle that, though they were good so far as they went, they did not sufficiently bear in mind the necessity of restricting the exemption to those things alone which ought, on our principles, to go untaxed—a necessity which, from the point of view of the Government, is just as important as that of declaring the exemption itself.

"With regard to mule and water twists, it has been represented to us that there is very great difficulty in distinguishing between the two, and that we would save both importers and customs-houses a good deal of trouble if we combined the two and applied to them both the same valuation. We have followed out this suggestion, and it will be observed also that we have somewhat lessened the valuation from that which was made when the Bill first came before the Council. The reason of this is that it is claimed that twist manufactured in this country is of somewhat lower value than twist manufactured in England. I daresay this may be the case in the higher counts of Indian twist and the lower counts of English twist, but it is obviously impossible for us in legislating both for the duties on the yarn imported into this country and for the duties on yarn manufactured in this country to make a difference between the values of imported and home-manufactured yarns. We have, therefore, taken as the valuation of all yarns a value based on the information received from Bombay chiefly as to the value of yarns spun in India. This valuation we apply in this Bill to the imported yarns, and when I come to explain what the Select Committee have done in the case of the Cotton Duties Bill it will be seen that we have imported into that Bill the very valuations which we have adopted in the Tariff Bill.

"As the Bill was presented to the Council, it contained a classification of grey goods and a discrimination of them by tariff values. This was not done in the case of white goods, as the values of these last vary too much according to quality to admit of the duty being reckoned otherwise than *ad valorem*. The Chamber of Commerce in Calcutta urged that the same principle should be applied to grey goods, and that tariff valuations would lead to inequality and to difficulties in discriminating classes.

"Personally I was opposed to this, and knowing that these grey goods formed an enormous proportion of the imports, and that even with the aid of a system of tariff valuations it would be most difficult for the customs-houses to suddenly adapt themselves to the increased work, I offered to reduce the valuations and to reduce the number of classes, taking the minimum value as the standard for the whole of each class, rather than give up the principle of tariff valuation as applied to grey goods.

"The Hon'ble Mr. Playfair, who so ably represents the Chamber of Commerce in this Council, and who has on its behalf gone through no inconsiderable labour during the past week, consulted the merchants who were chiefly interested in the question, and they adhered to their recommendation that these goods should be assessed *ad valorem*.

"Under these circumstances, I am not prepared to oppose their recommendation. I admit I do so against my own judgment, but I am quite willing to see how the plan works, because under the law as it stands the Government has the power by notification, at any time, to declare a tariff valuation.

"I am not sure that I admit the argument which these gentlemen urged that it is the business of the Government to provide sufficient and sufficiently highly paid establishments to meet the requirements of the Act. Tariff valuations are the customary means, both in India and elsewhere, of providing for this particular difficulty; and it is rather hard to call upon us to give up the ordinary practice in this respect and then bear the whole responsibility for the consequences. However, we will do the best we can, and it is, as I have just said, always possible for us, if difficulties arise in working, to return to the smoother basis of tariff valuations.

"Another point which the Committee took up was the application of the exemption which in this country is given to railway material to tramways.

The origin of this exemption lies in the fact that railways in this country, for the most part, I may say almost entirely, have been constructed either by Government or by contract with Government, so that railway material was for the purposes of duty practically classed with the Government stores. The payment of duty would only be a payment from one pocket to the other of the Government.

"We do not admit that tramways of that class which are used within municipal limits for the conveyance of citizens have at all the same claim to exemption as railways have. They get a very considerable exemption as it is, because they get, for example, their locomotives free of import, and the greater part of their imported material is iron, which pays only 1 per cent., while the general duty is 5. But beyond this we do not admit that that class of tramway has the same claim on us as railways. At the same time there are tramways which are built for the same purposes as railways—light tramways running into the country and opening it out as railways do; these it is desirable to exempt in the same way as railways, and the only means of providing for this exemption is by giving the Governor General in Council the power of exempting specific tramways by notification. This power, we presume, will be exercised on the principle which I have explained.

"In the case of ships and vessels strong representations have been made to us by Navigation Companies in Calcutta that they ought to be allowed to be imported free of duty, and these representations have received considerable support from the Chamber of Commerce and the Trades Association in Calcutta. The question of the taxation of ships was not actually considered at the time of the Tariff Bill of March last, but as a matter of fact ships are subject to taxation under the Bill as then passed, being either manufactures of iron or wood. However, we admit the strength of the argument that ships are the means of inland communication, and that on this ground they have a claim to be placed on the same footing, in respect to customs-taxation, as railways. They perhaps have a stronger claim, for they are in this country quite independent of Government support, whereas railways have hardly ever been established without considerable concessions from the Government. We recommend the Government to admit this claim on the part of the Navigation Companies, and we have provided that ships and vessels, whether imported in sections or entire, should be reckoned as free of duty. We do not admit any claim that their furniture or tackle should be free from the general

duty of 5 per cent. Of course, when a ship is imported entire, it will be free with its furniture and tackle, but everything else afterwards, when the shipowner has to purchase new furniture and tackle, we regard as the purchase of stores for carrying on his business, and we see no reason to exempt.

"In one or two cases we received a recommendation from the Chamber of Commerce to exempt certain articles on the ground that they are raw material. One of these, for example, was hemp. We are unable to admit that claim, and upon this ground that it seems to us that the exemption of an article of that kind is practically a protection afforded to manufacturers of hempen goods in India. Such an exemption would only result in enabling the manufacturer in his competition with the hemp articles imported to recover from the consumer the difference between the taxed and the untaxed price instead of accounting for it in the form of duty. If we import articles of hemp manufacture subject to the duty, it seems to us that the persons who manufacture in this country should not be unwilling to pay the tax on the raw material.

"There is only one other matter to which I desire to make reference, and that is the claim made by one or two persons that articles which happen at the present moment to be at sea should be exempted from the new duties which we are imposing The question of the application of the new tariff and the date on which it should come into force has been amply discussed and previously considered. A Bill was introduced into this Council five years ago which laid down the law on the subject after careful consideration not only of the equity of the case but of the practice of other nations.

"It is obvious that goods which are imported after this Tariff Act comes into force will bear a price which represents not only the cost of production as it existed before the Tariff Act came into force, but the addition which the taxation we may now impose makes to the price. That difference, if we were not to apply the Tariff Act to goods at sea, would simply go into the pocket of the importer, that is to say, he would gain a special profit which, were this law not brought into operation, he would not gain. To this special profit, he has no sort of claim. It is upon these grounds that the existing law, as it applies to the imposition of a new tariff duty, distinctly declares that it shall come into force at once, and that no exemption will be allowed on articles at sea.

"These are the principal matters, my Lord, in which the Select Committee have made alterations in the Bill."

The Hon'ble MR. WESTLAND moved His Excellency the President to suspend the Rules of Business to admit of the Report of the Select Committee being taken into consideration.

HIS EXCELLENCY declared the Rules to be suspended.

The Hon'ble MR. WESTLAND moved that the Report of the Select Committee be taken into consideration.

The Hon'ble MR. PLAYFAIR said:—"My Lord, I think that one and all of the members of the Select Committee have appreciated, as I have done, the great care that has been bestowed upon the troublesome definition of machinery by the hon'ble member in charge of the Bill. In a speech in this Council, a week ago, he declared the intention of Government to exempt machinery which represents capital employed in the productive industries of the country, and although in Select Committee he found himself unable to accept an explanation put forward by the Bengal Chamber of Commerce, with regard to what constitutes component parts of machinery, it is satisfactory to learn, from the remarks he has now made, that the Government interprets that spare parts or renewal parts of machinery are to be exempt from duty. I am aware that occasionally a careful consideration may be required in discriminat ng between what may be known as stores and what are renewals of machinery connected with a power-loom factory, and perhaps the hon'ble member will say whether he will instruct Collectors of Customs that the circumstances of the importation are to be taken into consideration in deciding cases in which exemption is claimed for spare and renewals as being component parts of machinery. It is also a matter of satisfaction that the Government has included in the free list machinery used in husbandry, whether such is worked by manual, animal or by steam power. I hope it will also be satisfactory to importers that the recommendation of the Import Department of the Bengal Chamber of Commerce has been given effect to, and that piece-goods, grey as well as white, and coloured yarns, have been assessed *ad valorem* for duty. I can now only express the hope that an efficient staff of appraisers, experts in the work, will be engaged, and that Collectors of Customs at sea-ports will endeavour, as far as it lies within their power, to protect trade rs from harassment and worry in connection with the appraising of their imports for duty, and facilitate the quick delivery of goods."

The Hon'ble MR. WESTLAND said:—"With reference to the remarks which have fallen from my hon'ble friend Mr. Playfair, I will say in the first place that it is my intention to give instructions to the Collectors of Customs in accordance with the remarks which I have just made to the Council. So far as I can judge from the opinions of the hon'ble member, these instructions will meet the wishes to which he has given voice.

"As regards the employment at the customs-houses of a sufficient staff, I may say that this question has been under the consideration of the Executive Governments, which are in this case the Local Governments, from before the time at which this Bill was laid before the Council. The instructions which we have given to these Local Governments are that we do not wish them to restrict such expenditure as they think to be absolutely necessary for the engagement of competent appraisers. We hope that both in Calcutta and Bombay the Local Governments will find men of mercantile experience who will be able to deal with questions arising in the appraisement of cotton goods, and that they will also have some officers on the customs establishment who will be able to give expert advice on matters relating to machinery. These are the two principal subjects on which difficulties have arisen in the past, and the Local Governments may feel sure that the Government of India will raise no objection to the bestowal on these two objects of any expenditure which they may think necessary."

The Motion was put and agreed to.

The Hon'ble MR. WESTLAND moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

COTTON DUTIES BILL.

The Hon'ble MR. WESTLAND presented the Report of the Select Committee on the Bill to provide for the Imposition and Levy of certain Duties on Cotton Goods. He said:—"With the permission of Your Excellency I wish to make a few remarks only on the subjects which have come before the Select Committee in discussing this matter. The first point which is referred to in the Report of the Committee is the definition of Collector in section 2. We have found it necessary to revise that definition, our object being that we should indicate in the first place that at the principal ports the Act should be administered by the Collector of Customs, and that in other places no officer under

the status of a District Collector should have the administration of the Act. It may probably be found advisable by the Local Governments to place in the hands of the Customs Collector at the principal ports jurisdiction in respect to mills which lie outside the geographical limits of these ports and which would in default of other arrangements come under the administration of the Collectors of districts. The form which we have given to the definition will enable the Local Governments to do this, if they think it advisable.

"Another point which came up for the consideration of the Committee was the necessity of allowing for a variation in the yarns from the precise counts which were defined as liable or not liable to taxation. We admit that it is impossible for a millowner who is aiming at producing, say 20s, to avoid producing individual hanks which weigh a little more or less than 20s ought to weigh. We have provided for this variation by inserting in the clause which imposes these duties the definition that the exemption applies to yarns up to those which are 'commercially known' as No. 20. As a matter of fact, no millowner will deliberately spin 21s and sell them as 20s, for the simple reason that 21s are more valuable than 20s, but at the same time it is necessary to give him the same amount of latitude which in commercial usage is given when the purchaser of a bundle of 20s finds it may contain some yarns which weigh less or more than 20s theoretically ought to weigh.

"We have carefully examined the provisions of the Bill as regards the allowance on drawbacks and refunds. The provisions in respect of refunds upon yarns when they are woven into cloth, I must admit, are only of an inchoate character. We have laid down the principle that they are entitled to refund in respect of duty which it is shown they have paid; but it will be necessary to settle a number of details, in communication with the millowners, before the provisions of the law become easily workable. It will be observed that, in the provision at the end of the Bill for the making of rules under the Bill, we have taken a very wide power to prescribe arrangements under which the requirements of section 21 (relating to these refunds) shall be deemed to be sufficiently complied with. It is under this clause that we hope, in communication with the millowners, to make arrangements to enable the drawback sections to work to their satisfaction.

"Although it is not a matter arising immediately out of the Select Committee's Report, I may be allowed to express the satisfaction of the Govern-

ment that, so far as they can judge from the attitude of their public critics, the Bill before the Council has been accepted, in its procedure, as a satisfactory solution of the problem of the levy of excise-duties upon mill products in India. I pointed out in introducing the Bill that the main object which determined our procedure was that of avoiding as far as possible all harassment of the millowners, and all interference with them, in the conduct of their own business. I would appeal to them now to frankly accept that position, and as our proposals are based on the supposition that they will endeavour to deal fairly by us, without having a Government officer perpetually supervising their actions, so they will endeavour to meet our requirements, and to join with us in making the system work with smoothness and regularity. I feel sure that I may enlist, on this behalf, the support of the powerful association, the Millowners Association of Bombay, and I can assure them that in the executive arrangements which remain to be made we shall, to the utmost of our power, adopt the same principle—that of non-interference with the work of mills, and will use all endeavour to avoid employing any of the compulsory processes which it is of course necessary to reserve in a Bill of this kind. I bear in mind, in these remarks, more especially the question of postponing assessment and facilitating drawbacks by the plan of warehousing. Some of the details of these arrangements we have yet to work out. The general principles and the necessary legal powers are given by the Bill; and our object in making the subsidiary arrangements will be to meet the millowners' convenience in every point which does not endanger the security of the revenue."

The Hon'ble MR. WESTLAND moved His Excellency the President to suspend the Rules of Business to admit of the Report of the Select Committee being taken into consideration.

HIS EXCELLENCY declared the Rules to be suspended.

The Hon'ble MR. WESTLAND also moved that the Report of the Select Committee be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. FAZULBHAI VISHRAM moved that in the first proviso to section 5 of the Bill, as amended by the Select Committee, the figures "24" be substituted for the figures "20", and that the second proviso to the same section be omitted. He said:—"My Lord, the remarks which I ventured to offer at the last meeting of Your Lordship's Council render it

unnecessary for me to say more than a few words with reference to the amendment which stands in my name. The observations made then were directed to show the expediency of raising the limit of exemption from excise-duty from yarns of 20s to those of 24s counts; and I accordingly pressed those views in Select Committee. I fully appreciate, my Lord, the difficulty which it has been explained to me the Government of India is labouring under in dealing with the matter, and which led to the rejection of my proposal in Committee. I do not wish for a moment to add to this difficulty by anything that I say. But, in view of the strong feeling prevalent in this country and the universal consensus of opinion on the subject, I feel it my duty to press my amendment upon the consideration of the Council whatever its fate may be. I venture to hope that, as it gives expression to the prevailing opinion and feeling among the people of India and all persons interested in the industrial development of the country, it may help in clearing away the fallacious notions which seem to influence the consideration of the question in England, and possibly may prove of some assistance to the Government of India in strengthening its hands to do complete justice to the people of whose interests it is the trustee and custodian. My Lord, it has been often stated outside this Council that the authorities at home, to use the ordinary English phraseology, would not have so hampered the discretion of the Government of any other colony or dependency of Great Britain. It is impossible for me to say how far this view is correct, for I am not aware of the relative position of dependence or independence of the Government of India towards Her Majesty's Secretary of State as compared with that of other British possessions. But, speaking with the profoundest respect, it does seem hard upon the people of this country that the well-considered judgment of its Government should be put aside or hampered by views formed upon an insufficient acquaintance of facts. One word more, my Lord, and I have done. The object of Government in bringing forward this Bill is avowedly not of raising revenue, but to place a countervailing duty on such of the productions of India as competes with England. Now, I submit that it has been proved conclusively by facts and figures that our yarns do *not* compete with the imports from England up to the count of *28*. As I said at the last meeting, the proportion of low counts up to that number in the imports from England is only one per cent., or, in the words of the Hon'ble Finance Member, *2* per mille, which is much less; and still to tax *20* per cent. of our production is an unnecessary hardship on an industry which has suffered *so* much of late from one cause or another."

The Hon'ble SIR ALEXANDER MILLER said :—" I should have been rather inclined to record a silent vote on this occasion, but so much has been said, both inside this room and out of it, on the subject of the position of the Council with regard to a question of this kind that I would rather desire—particularly as I am unable entirely to agree either with the utterances of my hon'ble friend Sir Griffith Evans or with those of my hon'ble friend Mr. Westland on this subject—to explain exactly the position in which I think the matter stands.

" It may be admitted that the power of this Council to reject any measure brought before it by anybody, whether as a Government measure or on behalf of a private member, is absolute ; but I do not think that the power to pass or to alter any propositions which are brought before it is so unlimited as the power of rejection. In the first place, it is quite clear that in any case it would be an absurd and unpractical act on the part of this Council to pass a Bill in a form which was necessarily calculated to ensure its rejection by the authorities—whether by His Excellency the Governor General, or by Her Majesty acting on the advice of Her Ministers at home—who have the right to reject it after its passing by this Council. But in the present case there is what I take to be a further, and even more important, limitation upon the action of the Council. It is an admitted constitutional principle that no measure imposing taxation upon the subjects of the country can be introduced even into the House of Commons, except upon the motion of the responsible Minister of the Crown, and that no member, even of the House of Commons, can make any motion tending to increase the amount of taxation which is proposed on behalf of the Crown. It is quite true that, if you look at this measure by itself alone, the motion which has been made by my hon'ble friend Mr. Vishram does not err against that canon, but I cannot help looking upon these two acts as practically one and the same transaction, and regarding not merely the technical form of this proposal, but its bearing upon the whole question of cotton-duties. We are therefore in this position: permission has been given—that is to say, we have been informed—I am taking this statement from that made by Mr. Westland when introducing the Bill—that Her Majesty's Government consent to the imposition of the extra tariff, for which we have just passed a Bill, upon condition that a certain other countervailing duty shall be imposed. We have also been informed by my hon'ble colleague that the further question as to the precise point at which exemption from taxation under this Excise Bill should be fixed has been a matter of discussion with Her Majesty's Government, and

that the condition which has been imposed as the price which we have to pay for the permission to introduce the Tariff Act is that this particular figure of 20 should be taken as the limit of exemption. Under these circumstances, I think that, having accepted and passed the Tariff Act, it would be, if not actually dishonest, at any rate a breach of contract on the part of this Council, to take advantage of that sanction and then refuse to perform the condition upon which that sanction was given. For this reason I feel bound to oppose this amendment."

The Hon'ble SIR GRIFFITH EVANS said:—"When this Bill was last under consideration I stated what my position was, and the reasons why I did not oppose the levy of a countervailing excise upon the Indian cotton manufactures which compete with English imports. I will not recapitulate those reasons further than by reminding the Council that the main reason was that the Secretary of State for India had finally decided, in consultation with Her Majesty's Government, and after discussion in the House of Commons, that the 5 per cent. import-duty would be protective unless balanced by a countervailing excise, and had made the levy of a countervailing excise a condition to the imposition of the import-duty, and I did not think it was practically open to the Secretary of State to relax that condition. As financial exigencies compelled us to resort to the import-duty at once, I deemed it useless at present to re-open a question so closed, and thought it wisest to accept this condition and impose the excise at once. But very different considerations apply to this amendment, which raises the question as to the precise limit at which we should draw this line between goods which must be taxed in order to comply substantially with the principle laid down and those whose freedom from taxation will not cause the impost to be protective in its character. The point as regards the question of limit has been very clearly stated by my hon'ble friend Mr. Westland, who has pointed out that, to use his own words when introducing the Bill, 'We carry out the conditions of non-protection imposed upon us by subjecting to an equivalent excise-duty the classes of goods described as primarily belonging to the sphere of non-Indian manufacture.' It is quite clear that this is not a matter of prying into small details, but that there must be some substantial competition before it would be proper to impose this excise. But the Hon'ble Financial Member went on to explain that the proportion of yarn imported below 28s was so small that the

Government of India considered the limit should be drawn at 24s. As he puts it :—

'The information of the Government of India is that practically nothing below 28s is imported from Manchester, and we therefore proposed to limit our tax to counts higher than 24s. The Secretary of State however believes, from the information supplied to him, that cloth is imported into India which contains (although in combination with finer yarns) yarns of count 24s and desired to make 20s the higher free count.'

"The Hon'ble Financial Member then went on to explain that his statistics about yarn were complete and satisfactory, but that it was more difficult to ascertain the exact facts about woven goods, as no record of the counts were kept by the trade, and it would require an expert examination to ascertain them. He concludes by saying, in effect, that as the matter of fact, regarding which there was difference of information between the Government of India and the Secretary of State, was one which could not be satisfactorily ascertained without an enquiry of some length, the Government of India had arranged to fix the limit at 20s pending the enquiry, and to take power to exempt the counts between 20s and 24s should the result of the enquiry show that it was unnecessary to go so low as 20s in order to avoid protection. The Government have also published a telegram from the Secretary of State fixing the limit at 20s but allowing them power to exempt with his sanction.

"This means that a very harassing tax, which, on the information which was before the Government of India and the further information before us, does not appear to be necessary, is to be imposed pending the enquiry into its necessity, instead of waiting till facts are ascertained showing the necessity before it is imposed.

"I should have thought that the obvious and just course was that pending enquiry we should tax only so far as the information in the hands of our Government and laid before the Select Committee shows is necessary; but if there is a disputed matter, and if that matter requires expert inquiry, go on with your expert inquiry, and if it appears at the end of that inquiry that in order to avoid protection it is necessary to tax down to 20s, then on the expiration of that enquiry the Financial Member of Council will be able to come before us with a statement that the enquiry has shown that he was wrong and the Secretary of State was right, and he will be able to come before us with an intelligible Bill and give intelligible reasons for asking this Council to vote it, and the consider-

ations which have led this Council to accept under protest the excise-duty will operate to enable him to carry that Bill. But it is a different thing altogether that we are asked to do. We are asked to vote blindfold on the off chance that it may turn out that the information which the Secretary of State has received is correct and that the Government here are entirely wrong. On this off chance we are to plague and harass a very important industry by putting on this tax instead of waiting as I have suggested. That is the proposition before the Council. I would ask you to remember how objectionable the tax is. Remember how clearly the Financial Member set forth its objectionable character and the difficulties of enforcing it. Look at the memorandum of the Collector of Customs for Bombay, and you will appreciate its harassing character, and its tendency to induce the Indian mills to confine themselves to counts below the limit fixed and so destroy an existing industry. Remember that this harassing duty, this necessary evil, will, if limited to 24s, affect only 6 per cent. of Indian production, whereas if fixed at 20s it will affect and possibly paralyse 19 per cent. We are asked to inflict this serious evil upon the people of India pending an enquiry as to whether it is necessary to do so or not. Surely, if we are, as I have always understood, a responsible legislative assembly, we have a duty to perform in deciding whether any necessity is shown for fixing the limit lower than 24s. We need no technical knowledge for the present purpose. We simply have to decide what is the reasonable thing to do under these circumstances, and whether we should stay our hands or not. We have the assurance of the Government of India that, so far as the information before them is concerned, this taxation is not necessary, that the information given to the Secretary of State needs testing, that the process of testing needs time, and that the materials for such testing are not at present available. Under these circumstances, did any one ever hear of a more extraordinary proposition than that we should, as I have said, vote this tax blindfold on the off chance that it may turn out necessary? The only reason given is that the Secretary of State has so ordered it, although he is so uncertain of his facts that he has agreed, if the enquiry satisfies him that he is wrong, to allow the Government to take off the tax. It is as though the prosecution in a criminal trial asked the jury to convict on admittedly insufficient evidence on the ground that the Secretary of State desired it and had promised to hold a further enquiry, and if he found the prisoner was innocent to pardon him. Nay, it is stranger, for in that case the prisoner, if acquitted, could not be tried again. Here the Government can have a further trial on fresh evidence. I do not suppose that any legislative assem-

bly has ever had such a request made to it—a request to tax, pending a decision to be come to by the Executive whether the tax is necessary or not.

" It is an abdication of the power and duties with which this Council has been entrusted by Parliament—an abdication at the supposed bidding of the Secretary of State. I say supposed bidding : for though he may have issued orders to the Executive to introduce the Bill in this form, he cannot order this Council to pass it ; that depends on the vote of the majority of the members. The ordinary and additional members have equal votes, and each vote has equal value, with a casting vote in the President. I will not discuss now the position of those members of the Executive Council who sit in the statutory Council for making laws. Their position is from their dual capacity a complicated and difficult one, and I will leave them to explain it; though, unless the cords have been drawn tighter since the reference to the cases of Sir Henry Durand and General Wilson, I venture to doubt whether their position is quite what has been stated or their action so automatic.

" But the unfettered discretion of this Council as a body, so far as its power extends, is undoubted, and has been recognised by the Secretary of State over and over again in his published despatches. Even in his well known despatch of 31st March, 1874, which tightened the reins on the Government of India, His Lordship said :—

'It is of course conceivable that a Bill of which I have approved, or which has been modified in conformity with my desire, may be materially changed during its passage through the Legislative Council. It appears to me that, as a fact, that body rarely alters Government measures on points of principle; but, if the case to which I am referring should happen, I do not apprehend that Your Excellency would have any practical difficulty in delaying the progress of the Bill until I have a fresh opportunity of expressing my opinion.'

" Further, he goes on in a subsequent despatch dated 15th October, 1874, to state, in answer to the objection that any hard-and-fast rule as to the course to be pursued with regard to Bills actually before the Council 'might materially affect the position of the Legislative Council' :—

'The object of the instructions which I have given Your Excellency on this subject is not to fetter the discretion which the law has vested in the various legislative authorities of India.'

"This I have always understood to be the constitutional position of the Council as a body, and as regards the absolute freedom of the additional members, official and non-official, to vote as they think wisest and best under all the circumstances of each particular case, I have never heard it questioned. That they should decide in each case as practical men, with a due sense of responsibility and a due regard for consequences and results, goes without saying in the case of men charged to legislate for a great and complex Empire.

"It is not any strange or dangerous doctrine which I am preaching, nor is it a new one. The power of the Council is well safe-guarded and can be no danger to the State. The Bills we pass do not have the force of law until they receive the assent of the Governor General. He may refuse his assent or refer the matter to Her Majesty. Even if he gives his assent, the Secretary of State can disallow the Act, and it will then cease to be law. Moreover, the constitution of the Council is such, and the proportion of official and nominated members is such, and the experience and business capacity of its members is such, that there is no probability of its exhibiting revolutionary or anarchic or even unreasonable tendencies. But without the vote of this Council nothing can become law over the whole of India except in certain cases of emergency. We should be careful to maintain the position assigned to us in the Constitution, and not to abdicate our functions or allow the Executive to make laws while we only register them. The Secretary of State and the Executive Council have no legislative powers and cannot be allowed to usurp them.

"But it may be said the Secretary of State has made this limit of 20s a condition of imposing the import-duty, and will withdraw or veto both the Bills. If I thought this were probable, the same considerations which have induced me not to press for the rejection of this Bill would prevent my pressing this amendment.

"A moment's reflection will, however, show this to be a mere bugbear. The Secretary of State has announced in Parliament his willingness to allow the imposition with a countervailing excise to eliminate the protective effect. He has admitted, in effect, that it is uncertain as yet whether it is necessary to go so low as the 20s. No doubt he has ordered the Government of India to introduce the Bill in this shape and has possibly refused to allow them to introduce it with a limit of 24s, but, if he finds that the majority of this Council decline to inflict such hardship upon the people until the result of the enquiry shows its

necessity, it seems absurd to suppose that he will cause the loss of a crore or a crore and a half in the face of an enormous deficit, which there is no other way of filling, sooner than wait the result of the enquiry and then introduce a Bill to lower the limit if necessary.

"Then there is the clamour of Lancashire manufacturers. But the Secretary of State cannot please them, for they object to any import-duty and say a countervailing excise is useless.

"The information that the Secretary of State relies on is a statement that there is a loom cloth imported containing 24s combined with finer counts. No further information has been laid before the Select Committee to show that any such cloth is manufactured in India so as to come into competition. If it is not so manufactured now, there is no danger of such a manufacture springing up pending the enquiry.

"There is a telegram from Rangoon saying that there is a competition between Manchester and Bombay in dyed yarns between 20s and 24s. The hands are the hands of Esau of Rangoon, but the voice is the voice of Jacob of Manchester. I am told the market is a very small one, and the matter can well be left to the proposed enquiry.

"We need not worry ourselves regarding small details, for it has been shown by the Bombay millowners that about 25 per cent. of the cost of production in India is for stores already paying a five per cent. duty. This amounts to a 1¼ per cent. tax—add five per cent. to this and the handicap is 1¼ per cent. in favour of England. In dyeing it is said the cost of the imported dyes, etc., is 50 per cent., which makes a 2½ per cent. duty already.

"Also it is not proposed to tax woollen and other manufactures, because the competition is not important.

"Bearing all these matters in mind, and bearing in mind that it is admittedly not finally established that it is necessary to tax below 24s, and that it will be quite easy to do so hereafter, if necessary, and that no cause of urgency for imposing the tax pending enquiry has been made, I invite the Council to accept the amendment.

"There is one more argument which may be used. The Secretary of State has shown great consideration for the Government proposals, and has expressed

his willingness to be convinced; why not trust to his conversion if our cause be good? Herod of old went further, and in reply to the apostle's arguments, more convincing if possible than the Financial Member's able minute on the limit, is reported to have said: 'Almost thou persuadest me to be a Christian'; we have no reason to doubt the good faith of Herod in this matter, but there were political difficulties and Herod was a governor under the Romans, and I never heard that the conversion was finally effected.

"The responsibility of deciding is our own; let us bear it as we ought and decline to shift it on to the shoulders of the Executive either here or in England. Every man must judge for himself according to his lights as to what is his duty. But, speaking for myself, I feel it my duty in this state of things to ask the Council to adopt this amendment, and not to vote for taxing down to 20s pending enquiry, in the absence of any evidence that it is necessary, and in the face of so much evidence to the contrary."

The Hon'ble BABU MOHINY MOHUN ROY said:—"My Lord, I wish to say a very few words in support of the amendment moved by the Hon'ble Mr. Fazulbhai. It is a very mild amendment. It tends to alleviate the effects of the Excise Bill. At the same time, it is not of such a character as to render it likely that the Secretary of State will reject the Bill on account of this amendment. Our position is this. In order to have an import-duty upon cotton goods, we must have an excise upon similar cotton goods manufactured in India. The two go together. We cannot have the rose without its thorn. The excise will, no doubt, be a thorn in the side of the infant industry of India. It seems, however, that in regard to threads under No. 24, there is little, if any, competition between Manchester and Bombay mills. We may, therefore, safely support the amendment without imperilling the fate of the Bill."

The Hon'ble PRINCE SIR JAHAN KADR MEERZA MUHAMMAD WAHID ALI BAHÁDUR said:—"My Lord, if I did not express my opinion at the last meeting of this hon'ble Council, when these Bills were referred to the Select Committee, it was because I did not think it proper to do so at that early stage.

"I had then, and still have now, grave doubts as to the advisability of imposing any duties on cotton goods manufactured in this country. The industry in question is comparatively in an infant state now in India, and if the manufactured articles here do not enter into competition with the imported articles,

and if the revenue expected to be derived by the imposition of these duties is comparatively very small, it is clear that it will be opposed to sound policy to levy any tax on the Indian cotton goods. But if there *be* any competition between any description of articles manufactured in this country and articles of the same description imported from foreign countries, then it seems to me that, in the interests of the consumers, I ought to support the proposal of levying duties on goods of this description.

"I take it that it was not questioned that, as regards yarns to the count of 20, there was no such competition. The question now is with reference to the amendment proposed for making yarns to the number of 24 duty free. These are the articles which are consumed by the poor subjects of our gracious Sovereign; and as it seems evident that no articles of this description manufactured in England enter into competition with the articles of the same description manufactured in this country, it would be beneficial to the poorer classes to exempt them from duty.

"Holding this view, I beg to support the amendment just proposed by my friend the Hon'ble Mr. Fazulbhai Vishram."

The Hon'ble Mr. PLAYFAIR said:—"My Lord, the cotton industry is one of the oldest in India. The form it has now assumed, namely, power-loom production, with which this Bill is intended to deal, is only an advance upon the original hand-loom industry. Progress in this direction is undoubtedly the outcome of British influence, perhaps I should say of British example; any way it is an adaptation of Western ideas by the people of this country. I find that the power-loom mills of India date from 1854 and are largely owned by natives, the capital invested amounting to approximately Rs. 1,200 lakhs. In evidence of the support given to the enterprise I find that out of a capital of over Rs. 694 lakhs invested in Bombay cotton mills, less than £300,000 sterling represent English capital. It is, in short, an Indian and Native industry. The industry, as I said in this Council a week ago, in its remonstrance against taxation by excise, does not ask for special favour or protection, but simply wishes to be left alone—to do that for the country which no other agency is doing. It is quite content to continue on its own merits, for the benefit of those associated with it as well as for the benefit of the people at large. The question which this Council has brought itself to consider is as to how far the production of cotton goods in this country competes with that of Lancashire. The Indian millowners

assert that there is no competition between the two. Statistics prove that there is no competition in cotton yarns, because the import of yarns below 24s is practically *nil*, while statistics show indisputably—and the fact I take it has been admitted by the hon'ble member in charge of the Bill—that Indian mills produce only an insignificant quantity of yarns of counts finer than No. 24s. Unfortunately it is not possible to ascertain with statistical precision the amount and value of imported fabrics containing yarns no higher than No. 24s. But those interested in the manufacture of cotton goods in this country located at Bombay and Madras, as well as Calcutta, state that the quantity is very small, and that Lancashire has only a share of these imports. At the same time, we are led to understand that the Secretary of State for India holds some information in respect to the exports of such fabrics from England, but as this has not been laid before the members of the Select Committee, and I have no reason to believe that the Government of India has received the information, it cannot now be brought into the argument. If there is any doubt about the matter, surely the true English spirit will be in favour of giving India the benefit of that doubt, and in effect it is this that the hon'ble member by his amendment asks the members of this Council to do. It has been shown that the yarns exported to China and the far East do not range above counts No. 20s, and that the yarns produced in India ranging between 20s and 24s are consumed by hand-loom weavers throughout India, a class of producers with whom even Manchester will not call for opportunities to compete. A small quantity of 24s spun in Indian mills finds a market in the Straits. It is therefore argued, and I think with much force, that an excise-duty on counts below 24s will not be a countervailing duty, but a direct tax on the production of Indian mills, and I would add, not in accordance with the Statement of Objects and Reasons attached to the Bill, which provides only for a countervailing duty upon the competitive classes of Indian manufactures. It is also asserted by Indian spinners, with which the Government of Madras concurs, that the effect of taxation by an excise-duty on yarns ranging from 20s to 22s, forming a large proportion of the yarns spun in the Madras Presidency, will be to reduce the production of yarns above 20s, for it is the case that yarns of this count will meet the requirements of the hand-loom weavers equally well. And, thus, as the Government of Madras points out, no benefit will accrue to revenue, but great inconvenience will be caused to mills and consumers. The curtailment of production in yarns over 20s will, I venture to say, not be to the benefit of manufacturers or to the advantage of India in general. It will tend to restrict the trade and will compel

the people to be satisfied with a quality of goods inferior in character to what they would otherwise use. It will be prejudical to the industry in so far as it will prevent the development of trade in the higher class of fabrics, which, in the natural course of events, an improvement in the condition of the people would otherwise bring about. My Lord, I would submit that taxation of the better class of yarns ranging between 20s and 24s means, first, interference with an industry which the Government has every interest to encourage in order to reduce pauperism; second, an enhancement of the cost of a necessity of the poor throughout India; and third, a direct discouragement to cultivators to improve the quality of cotton grown which would have to be regretted. Each of these objections is weighty in itself, but taken together they form a menace to an industry that at all events is deserving of consideration if it is not entitled, as the Hon'ble Mr. Westland has admitted, to the fostering care of the Government of India. It is one of those industries to which the members of the Finance Commission referred as helping towards a solution of the difficulties that must arise with the recurrence of times of famine if the people of this country continue to be wholly, or even principally, dependent upon agricultural pursuits. I think it specially noteworthy that neither the Chambers of Commerce of Calcutta, Bombay, Madras nor Cawnpore, representing varying interests, view this excise taxation favourably, and that the balance of commercial opinion is that, if an excise-duty must be imposed, it should be limited to yarns of counts above 24s. The Chamber of Commerce at Rangoon alone approves of excise-duty being limited to yarns above No. 20s counts; but it must be added that the trade at this port cannot be compared in volume with that of the other centres in India which I have just named. I think it will be found too that there are special reasons connected with the direct trade between the United Kingdom and Rangoon which may influence this decision. I therefore, my Lord, support the amendment proposed by the hon'ble member from Bombay that countervailing excise-duty on Indian manufactures should not operate on counts of 24s and under.

"I have already referred to the interference and irritation that an excise-duty frequently provokes, and I would readily acknowledge the consideration that has been shown to the interests of millowners in the drafting of this Bill so as to minimise such harassment without interfering with efficiency in the working of the Act.

"I am glad to learn that, among other arrangements, it may be possible to appoint the manager of a mill an excise-officer under the Act. This, I think, may be a convenience and economy in dealing with the delivery of goods placed in a bonded warehouse on the premises when the factory is situated at an inconvenient distance from the Collector. It is necessary that it should be clearly understood that 20s yarn means the standard that commercially passes as that count, which from unavoidable causes may range from counts 18½ or less up to 20½ or thereabouts; in other words, that a proportion of yarn finer than 20s should not necessarily subject a parcel to excise-duty. One of the chief difficulties that may arise under the provisions of this Act may be in showing to the satisfaction of the Collector that goods are entitled to drawback at the time of export under sections 17 to 24 of the Bill. It may be simple enough for a spinner who exports his goods direct from the mill to show that duty has been paid, but I fear that in the case of the middleman, who has purchased from a spinner and after the lapse of some time desires to export his goods, there may be great trouble. I can only express the hope that Collectors will be reasonable in the interpretation of the words in section 19, which have been carefully considered by the Select Committee, 'that it is shown to the satisfaction of the Collector at the port of shipment that the duty on the said yarn has been duly paid;' the word 'shown' having been purposely used to indicate that it is not necessary the goods should be identified."

The Hon'ble GANGADHAR RAO MADHAV CHITNAVIS said:—"My Lord, I beg to support the amendment proposed by my friend the Hon'ble Mr. Fazulbhai Vishram. I have considered the point, and I have come to the conclusion that while the imposition of the excise-duty, for reasons that I intend submitting later on in this Council, before the Bill passes into law, with a view to explain the reasons that led me to sign the Report of the Select Committee and agree to the Bill being passed against the wishes of the general public of this country, must be condemned as mischievous, based upon wholly uneconomical considerations, and particularly affecting my provinces, the drawing of the limit of exemption at the 20s would be regarded as a positive injury; and I feel confident that, after considering the facts and figures supplied by the Bombay Millowners Association in their very able memorial, the Government of India cannot entertain any reasonable doubts as to the justice and propriety of fixing the limit at 24s. As regards my own provinces, Mr. Bezonji Dadabhoy Mehta, the capable manager of the Empress Mills, a gentleman whose experience in mill management extends over

a period of no less than twenty years or so, telegraphs to me that it is only the 30s and 40s that enter into direct competition with Manchester, so that the limit might be fixed there even at 29s. Taking into consideration the products of all Indian mills, the limit might however be fairly fixed at 24s, and, as the same has been the finding of Your Excellency's Government after very careful consideration, I doubt not that the power taken of raising the limit to 24s will be at once exercised. The Hon'ble the Finance Minister was pleased to remark the other day that, while a measure like the present one is known to be under consideration, an enquiry of a kind that is necessary to arrive at a correct conclusion as regards the limit of counts below which Manchester does not export is impossible. While I quite admit that there may be some truth in this argument, I cannot see the justice of making the Indian mill industry suffer for that simple reason. I cannot see why the presumption should be rather in favour of Manchester than in ours. We find, my Lord, that following the spirit of our penal legislation, a judge does not convict an accused so long as he can reap the benefit of doubt, and even a murderer is justly let off oftentimes on that ground. Is the millowner, I beg to appeal, in a worse position, and must the presumption be rather against him than in his favour? I think it might be also possible to fix the present limit at 24s, and should, as the Hon'ble Sir Griffith Evans has just pointed out, enquiry prove such a demarcation unfair, to bring it down to 20s hereafter, though I may venture to say that sufficient reasons have already been forthcoming to convince Government that the 24s is the fairest limit; in fact, 'the information of the Government of India' itself, to quote the Hon'ble Mr. Westland's words, 'is that practically nothing below 28s is imported from Manchester.' Such a limitation therefore as the Hon'ble Mr. Fazulbhai Vishram proposes would be a mere act of justice and might serve to allay those feelings of distress and indignation with which both the mercantile community and the general public have received the news of this wholly uneconomical and indefensible excise-duty."

The Hon'ble THE MAHÁRÁJÁ OF DURBHANGA said:—"After the very eloquent speech that has just been delivered by my hon'ble friend Sir Griffith Evans, and the very exhaustive way in which the question has been dealt with by Mr. Playfair, I need only detain the Council for a short time. It is with the greatest pleasure that I wish to say a few words in support of the amendment

that has just now been moved by the hon'ble member from Bombay. As far as I can make out, there is still a difference of opinion as to whether the outturn from Indian mills of yarns under 24 is sufficient to justify the supposition that their exemption from the payment of excise-duty can, to any appreciable extent, interfere with the trade that Manchester carries on in such classes of yarns. We have no sufficient statistics before us to form any opinion. No proper enquiry has as yet been undertaken. The only thing that is proved, my Lord, is that the total amount of revenue which such a tax is likely to bring in, is, comparatively speaking, of not much importance. And it is, therefore, naturally expected that till a thorough enquiry is taken in hand no tax should be levied. The reason why I support the amendment is not because I wish Indian trade to be protected against that of Lancashire. Every Indian who loves his country will support free-trade. Free-trade is the natural commercial policy of a country like India, which is chiefly a producer with but few manufactures of its own. Nobody regrets more than I do the necessity that has compelled the Government to impose a general system of import-duties. It cannot be denied that it has created a certain amount of unrest amongst some of the commercial classes, and that the policy is unpopular amongst other important classes of the community as well. In my humble opinion, the only possible way to allay this feeling of unrest is to reduce our annual expenditure so as to do away with the necessity of having to impose any import-duties at all. But we are now discussing the question of cotton-duties, and not the budget. And from the remarks that were made by my hon'ble friend the Military Member of this Council in March last, I feel convinced that the Government itself is fully in earnest about the necessity of curtailing expenses. I, therefore, do not wish to say anything further on this subject at present. But if, my Lord, it may happen, as indeed it has happened before and will happen in the future, that for revenue purposes and to meet the needful extraordinary expenses of the State, resort must be had to special taxation, then the imposition of import-duties is the least objectionable form of taxation. At least taxation in this form is much less felt than any sort of direct taxation provided that these duties are low and within the limits where their incidence cannot be felt by the people. As soon as they become felt, they become objectionable. And what I wish to point out to Your Lordship is that, if in India all yarns under 24 are made liable to an excise-duty without a proper enquiry, it will be felt, and can only be justifiable by the admission that this duty is necessary for the purposes of protection."

The Hon'ble MR. MEHTA said :—"My Lord, I also do not propose to detain the Council with any lengthy remarks after the full, eloquent and exhaustive speeches made by my hon'ble colleagues Sir Griffith Evans and Mr. Playfair. Coming in, as I do, at so late a stage of the deliberations of the Council, I trust Your Excellency will permit me to say a word of emphatic protest against the principle and policy which seem to me to underlie the provisions of this Bill. That principle and that policy are that the infant industries of India should be strangled in their birth if there is the remotest suspicion of their competing with English manufactures. In the course of one of his previous speeches Sir Griffith Evans endeavoured to justify that policy under cover of one of his happy illustrations. He conceived that our English rulers were, in adoption of such a policy, so many *Gautamas*, only somewhat inchoate and imperfect. I should have thought another illustration a more apt one. I think they could be better compared to Baillie MacWheeble, the steward of the Baron of Bradwardine, as many of us perhaps remember him depicted in the pages of Sir Walter Scott, who loved his patron and his patron's daughter next (at an incomparable distance) to himself. I protest against such a policy not only in its present immediate operation, but as establishing a most pernicious precedent. Coming to the amendment itself, I submit that it is as just and reasonable as it is temperate. By the Bill we are asked to legislate in the dark, on the faith of some unknown information and evidence in the possession of the Secretary of State for India which is not only not before us, but which, as Sir Griffith Evans surmises, is probably not within the knowledge of Your Excellency's Government. And that, too, against the precise information so carefully collected and detailed in his able minute by the Hon'ble the Financial Member. I ask if it is consistent with the self-respect and dignity of this Council to thus legislate, not only in the dark, but in the face of the conclusions arrived at by the precise enquiry made by the Financial Member. The mill industry of India deserves a better treatment than this at the hands of Government, for it is not only beneficial to the manufacturers engaged in it, but it is beneficial to Government in more ways than one. To mention only one of several, the wages drawn by mill-labourers, who come from the mofussil and are many of them attached to the possession of patches of land, go largely towards payment of land assessment. It is well known that these men, after earning wages for a longer or shorter period, return periodically to their villages where they own their lands, and devote their earnings to reduce their indebtedness to the State. The mill industry has had to pass through

many vicissitudes. Only last year the currency legislation gave it a severe shock. Before it has quite recovered, it is sought to subject it to another. This is neither wise nor politic in the interests of this country. I suppose I must, like Sir Griffith Evans, leave alone the members of this Council who are so as members of the Executive Council. Their dual position is so fearfully constructed that it is as difficult of separation as Dr. Jekyll from Mr. Hyde. It would be rash to undertake to define their duties and responsibilities in this Council. But I would appeal to other hon'ble members who are officials. The present financial exigency is owing not a little to the services having secured exchange compensation. They joined the Indians in agitating for the imposition of duties on cotton-imports for the purpose of meeting the deficit largely due to exchange compensation. If, after having secured such imposition, they would refuse to support the moderate amendment of Mr. Fazulbhai to succour a Native industry from being harassed and burdened, they would be open to the suspicion that their coaxing tones to induce the natives to join in the agitation against Manchester were suspiciously akin to the interested seductions—made familiar to us by Dickens—of 'Codlins, the friend not Short.' I trust they will stand by those who co-operated with them in the agitation whose object is won in the Bill just passed. But it is said that, If you adopt the amendment, the Secretary of State will veto the new Tariff Act. My Lord, there are two senses in which the saying 'Render unto Cæsar the things that are Cæsar's' is true. It is true not only in the sense of rendering to Cæsar his rights and his dues; but it is true also when it is a question of obligations and responsibilities that lie upon Cæsar. If the grave responsibility lying upon him for the safe administration of the country can, in his opinion, be best discharged by vetoing the Tariff Act if the amendment is passed, leave to Cæsar, that is, the Secretary of State, to undertake and discharge that responsibility. Why should we usurp it? The Government of Her Majesty's Indian Empire must be carried on, and it will be for him then to decide how to save the country otherwise from the yawning deficit which is being prophesied, and which threatens to bring the Empire, I will not say to the verge of bankruptcy, but which will place it in a position of the greatest difficulty and hardship."

The Hon'ble MR. STEVENS said:—"My Lord, I ask the indulgence of the Council, while I explain briefly the reason for the vote which I propose to give, understanding myself to be free to exercise my judgment to the best of my

ability on the merits of the question before us. It certainly appears at first sight to be driving the doctrine of free-trade rather hard to invite the Legislature of a country to impose a somewhat troublesome and unproductive tax within that country, in order that its own manufactures may be free from any suspicion of advantage, however slight, over imported goods. But the conditions are unusual, and we are compelled to adapt ourselves to them. No one—not even the firmest adherents in England to this extremely developed policy of free-trade—can say anything better for the proposed excise-duty than that it is a necessary evil. From any point of view it should be restricted to the narrowest limits of necessity. It is fortunate for the possibility of arriving at a solution of the difficulties of this case that the interests of Lancashire and those of India are throughout almost the whole extent of the trade parallel rather than opposite. There is, however, a space of comparatively small extent over which there is some difference of opinion, and the task of defining the boundary is that which we have before us. If the inconvenience to Indian manufacture is, as I have said, to be reduced to a minimum, it seems clearly to be the business of those who would impose the restrictions to prove their necessity. It is admitted (apparently without question) that the necessity does not exist in the case of yarns not finer than those which are technically known as 20s. And the Secretary of State, in his instructions to Your Excellency's Government, shows himself ready to be convinced that yarns up to 24s are not fit subjects for a restrictive and vexatious excise-duty. The hon'ble member who has moved the amendment differs in his proposal only so far that he wishes at once to fix by law the boundary which the Secretary of State contemplates as the possible outcome of experiences. I agree with the hon'ble member, and I do so for two reasons. The facts presented to us have convinced me, as they have already convinced the Hon'ble Financial Member as well as the remaining members of the Government, that the line ought not to be drawn below 24s. If it be drawn below that number, the gain to Lancashire will (so far as ascertained facts go) be infinitesimal, while the Executive Government as well as the mills in the west of India will be exposed to all the troubles attendant on the collection of excise over a considerable extent of manufacture.

"My second reason is that it is in a high degree desirable that a settlement should be arrived at which is likely to be accepted as final—final so long as no material change occurs in the conditions. The discussions on the subject of these import and excise duties have been acrimonious and sufficiently protracted.

It is essential to the maintenance of good feeling between the countries that this should cease at once. I do not think that the proposal of the Home Government will have this effect. It will keep open a margin of debateable ground, and neither party will be likely to relax its efforts until the final decision has come. The lives of Ministries are precarious, and it is impossible to be even sure that this final decision will be in the hands of the same Secretary of State who has conducted the discussion to its present point. A period must ensue in the meantime of uncertainty and controversy, less mischievous no doubt than that which is now passing away, but still harmful, and, if possible, to be avoided.

"In these circumstances it seems that that solution of the problem should be adopted which is most likely to lead to finality, which will give us stable, rather than unstable, equilibrium. This solution, I think, is to be found in the amendment now under discussion. We have nothing whatever to show us that the case as to the introduction of coarse yarns into woven goods is what appears to have been represented to the Secretary of State, nor, if the fact is correct, have we any means of estimating its importance. The hon'ble member in charge of the Finance Department has told us that an enquiry into this question is not one which can be undertaken while the present measure is known to be under consideration. But it seems to me that, so long as the case as between 20s and 24s is kept pending for the decision of the Executive Government, this difficulty must remain. If the amendment should be passed by the Council and accepted by the Secretary of State, as I hope it will, and if hereafter further knowledge of facts should show that the result would be injurious to Lancashire, I venture to think that there is no member of this Council who would not vote to remedy it, not as abandoning his theoretical objections to the excise-duties, but as having accepted, as the only practical settlement within our reach, the Secretary of State's principle, that there shall be no protection, however trifling, of Indian manufactures.

"In the remarks which I made I have merely dealt generally with the subject, for I should have wasted the time of the Council if I had troubled it with details which are familiar to the commercial members, and of which I have no special knowledge; it is enough for me to state my own conclusion, based on the knowledge of others, that it is just and right to risk the lesser and less probable evil rather than to incur that which is greater and more certain."

The Hon'ble SIR ANTONY MACDONNELL said:—"I wish to say a few words with reference to the appeal which has been made to the members of Your Excellency's Council by the Hon'ble Sir Griffith Evans. We are placed under an obligation by Parliament—an obligation which, having regard to its origin, weighs as heavily upon the non-official members of this Council as upon the official members—that no measure shall be passed by this Council on this matter which will have a protective effect. There is, as the Hon'ble Sir Griffith Evans recognised, a solidarity between the Government of India and Her Majesty's Government, and my hon'ble friend will no doubt admit that no action ought to be taken by the Government of India which would place Her Majesty's Government and the Secretary of State at a disadvantage when Parliament meets and when the action of this Council is questioned in Parliament, as beyond any doubt it will be. The mandate of Parliament was that no measure of a protective character should be introduced into this Council. If when Parliament meets this amendment is carried, it is beyond any question that the Secretary of State will not be able to say to Parliament that its mandate has been carried out. He will be obliged to confess that that mandate, namely, that no measure of a protective character should be adopted, has been ignored, and that a measure which is not clearly non-protective has been carried into effect. Now, I am one of those who think that the Hon'ble Mr. Westland owes a great deal to the millowners of Bombay for the information which they gave to him, and I have no doubt that that information was given with absolute honesty. But the millowners of Bombay are but one of the parties to this controversy; it is human to err, and it is perfectly possible that the millowners may eventually come to recognise that the information which they gave as regards the limit at which this line should be drawn was inaccurate, and that if the line be drawn at 24s, the measure will not be free from a protective character. So far as I am able to exercise a judgment in the matter, I think that if the line be drawn at 24s it will have a protective effect. That being the case, I think the Secretary of State has treated this Government with much consideration, and even with magnanimity, in allowing us to draw the line at a point where protection is clearly excluded; and to take power to raise the limit according to the results of experience. By doing this the Secretary of State has placed himself in a position to say to the House of Commons 'I have taken all steps possible to carry out the mandate of this House'; while by enabling us to raise the limit afterwards he has shown his sympathy with the mill industry of India and his respect for the constitutional character of this Council."

The Hon'ble MR. WESTLAND said:—"It seems to be considered that, in asking the Council to come to a decision which it may not on the merits altogether approve of, I am asking it to do something of an extremely unusual character.

"My Hon'ble friend Sir Griffith Evans describes the power of the Council as free and unfettered and calls upon members to allow no infringement of that freedom. I cannot help thinking that this attribute of a quite independent power arises in some measure from the fact that the authority which in the United Kingdom is the ultimate deciding power in executive matters is also that which exercises legislative authority. And it is assumed therefore that in exercising legislative authority we are also in some way an ultimate deciding power, and we ought to be in some way specially exempted from the consideration of anything that lies outside our own Council Chamber.

"But as a matter of fact I do not believe that there is any Legislative Chamber in the world that is allowed to exercise its functions without regard to some other authority, superior or concurrent. The House of Commons, all-powerful as it is, has over and over again to frame its legislation with reference to conditions laid down by the other house. It has even to withdraw and alter its past decisions in order to secure the passing of its Bills. In asking the Council, therefore, to exercise its powers with reference to the instructions which the Secretary of State has given, I am merely in the position of a Minister who comes to the House of Commons and, addressing them as practical men, asks them to consider in what way they may best attain the object to which the legislation before them is directed, and who, saying that the House of Lords insists upon a particular condition in a matter of detail, asks them to subordinate their own views in the matter to the necessities of the case. The House of Commons does that over and over again, and I am not infringing the liberty of this Council in asking it to do that which the House of Commons can do without infringement of its dignity or independence.

"I already explained last Thursday the position of the Government in respect of the amendment submitted by the Hon'ble Mr. Fazulbhai Vishram. The papers which have been laid before the Council shew that the information which the Government of India possessed was such as to indicate that the taxation of all counts over 24 was an adequate measure of protection to Manchester against any favoured rivalry in this country. We have not the details of the information which is before the Secretary of State, and I cannot help hoping that the fuller

information, which I believe he is gathering, may induce him to give that consent which will enable the Government to exercise the power of further exemption which is secured to them in the Act.

"But I must again recall exactly what the position is. There are certain matters in which India cannot claim the rights of an independent country, and among those matters are the effects of its action upon the general commercial system of the Empire. These must be judged by an authority whose range of vision, and of responsibility, are wider than ours. I am not at present discussing the question whether this should be so; I am only saying that as a matter of fact it is so. It would be equally irrelevant in me to discuss whether India gains or loses more by its acceptance of its position as an integral part of Her Majesty's Empire; I can only say that it is an integral part, and must accept the duties as well as the advantages of its position.

"The Government of India are in the position of one of two contending parties. The demands of Manchaster lie one way, those of India lie another, and the authority that has to pronounce between them is Her Majesty's Government. I said last Thursday that I did not at all agree with those who thought that in this contention the adjudicating authority had given the case against India. The judgment is not the same which the Government of India would have given, but by far the most important issues in the case have been adjudged in our favour. On the point in which it is not in our favour, it is practically only reserved for further enquiry. Now I am quite consistent with myself in saying that in this point I think we are entitled to a decision in our favour, and yet saying that I do not dispute the justice of the adjudication and am prepared to accept the judgment.

"My remarks on this subject received, as it seems to me, very considerable confirmation, when last Thursday, within a few minutes of my making them, a telegram from England, which was delivered while we were still in the Council room, announced that the Manchester Manufacturers and Operatives Association had sent to the Secretary of State a protest against his action: they denounced the duties wholly, and declared that the excise-duties proposed were no adequate countervailing provision. The Manchester Chamber of Commerce has followed in the same lines.

"There could be no stronger corroboration than these protests afford of the claim I made last Thursday for the Secretary of State, that his proceedings

shewed that he had tried to hold the scales fairly between two contending parties. I do not come to this Council merely to say, Here is a decision to which, however unjust, you must assent; but I come to ask you to accept—I will not say an adverse decision, for that it certainly is not—but a decision that does not give you all you want, as a just pronouncement, and consent to base your legislation on the basis it prescribes.

"I can understand the position of the hon'ble mover of the amendment, and that he is bound, as the representative of the community in whose name he speaks, to give voice to the opinions they have so strongly expressed upon the subject with which the amendment deals. It is well that the Indian view of the case should be on record in the proceedings of this Council, and the hon'ble member, whether he means to push his amendment to a division or not, and those who have supported him, are right in laying it, and the grounds on which it is based, fully before the Council. Manchester on its side has protested, and why should not Bombay send in its counter-blast? But the protest being recorded, I ask the hon'ble members, as practical men seeking to attain a definite end, whether they are justified in pushing an amendment which they know will render the object at which they aim unattainable? We must have the cotton-duties to balance our budget; the Excise Duties Bill, as it stands, expresses the only conditions on which we can get them. Is it wise to push an amendment of which we know that the acceptance will cause the failure of the whole scheme by the exercise of the veto which the constitution of the Council reserves to the Secretary of State? The question before the Council, I am bound to tell you, is a Government question, on which the Government will, for the reasons and on the principles I have explained, exercise the whole of its voting power. But I hope that, after the explanation I have given, I may hope to receive the support also of some of those members whose opinions on the merits of the point at issue may coincide with those of the mover of the amendment."

The Hon'ble LIEUTENANT-GENERAL SIR HENRY BRACKENBURY said:—"I had not intended to intervene in this debate, but I must say a few words in consequence of some remarks which have fallen from the Hon'ble Sir Griffith Evans and the Hon'ble Mr. Mehta. The Hon'ble Sir Griffith Evans drew, and I think rightly, a distinction between those members of the Council appointed by Your Excellency as additional members of Your Excellency's Council for making

Laws and Regulations, and those members of this Council who hold their seat in it by virtue of their being ordinary members of Your Excellency's Council and who sit in it as ordinary members. I think the position of us, the ordinary members of Your Excellency's Council, in this matter is perfectly clear. We have had for some time past a discussion with the Secretary of State as to the imposition of import-duties upon cotton and an excise-duty upon Indian cotton manufactures. The subject has been minutely and carefully discussed, and we have at last obtained from the Secretary of State a definite decision and instruction that he will agree to the import-duties upon cotton being imposed upon certain terms. We have agreed to introduce a Bill upon those terms, and we, the ordinary members of Your Excellency's Council, have, I venture to think, as the Hon'ble Sir Alexander Miller has put it, entered into a contract to do a certain thing, and we are bound by the terms of the contract to do it.

"As regards the other members of Your Excellency's Council, I do not wish for a moment to raise the question of what they are bound to do, but I would like to say a word as to what I think that they would be wise to do. It has been assumed by the Hon'ble Sir Griffith Evans and the Hon'ble Mr. Mehta that if we were to substitute in this Bill 24s for 20s the Secretary of State would not reject the Bill. I do not feel at all sure of that. I think that, as the Hon'ble Sir Antony MacDonnell has said, the Secretary of State is pledged to Parliament that he will not allow any protective duties to be imposed. He could not, if this amendment were carried, go to Parliament and say, I have not allowed any protective duties to be imposed, being, as he at present is, under the impression, right or wrong, that to relieve cottons up to 24s from excise would be virtually making our import-duties protective duties. I think we should be running a very great risk indeed of the rejection of this Bill by the Secretary of State if we were to insert this amendment. My hon'ble colleagues have probably observed that since this Bill has been introduced meetings have been held in Manchester by the operatives of that city, and that resolutions have been sent to the Secretary of State against allowing these import-duties to be passed, and urging that the excise-duties which we now propose are no equivalent for those duties. Immense pressure will be put upon the Secretary of State at home. If we were now by our action to cause this Bill to be rejected, I think it is very doubtful if we should be allowed to pass these import-duties again, and it would be very unwise of us to flee from evils that we know to evils that we know not. Last year in this Council we were urged to accept an amendment to the Indian

Tariff Bill which would virtually have had the effect of not passing that Bill at all. My advice then was, 'Pass the Bill as it is: accept what you can get in the way of duties, and let us use our influence with the Secretary of State in the time before us to endeavour to get him to include the cotton-duties between this and next year.' By our action at that time we got the duties in the existing Tariff Act which enabled us to tide over a great financial difficulty: we have now got the Secretary of State's permission upon certain terms to pass import-duties upon cotton. My advice to all members of this Council now is, 'Accept that which you have got from the Secretary of State, and if you can show by satisfactory facts and figures that the limit ought to be raised from counts 20 to 24, let us use that influence, which has in the past nine months been successfully used with the Secretary of State to get these import-duties, to obtain his permission to raise the exemption from 20s to 24s, and do not reject now what you can have, and run the great risk, which you will almost certainly run, of not getting your import-duties at all.'"

His Honour THE LIEUTENANT-GOVERNOR said:—"I too, like my hon'ble friend Sir Henry Brackenbury, had not intended to take any part in this debate, but I feel bound to say a few words of protest against the language used by the Hon'ble Mr. Mehta, whom I understood to refer to the votes of the official members in this Council as being possibly influenced by the fact that they receive exchange compensation allowance. I think it is very much to be regretted that any question of personal interest should be imported into this discussion. I am entitled to believe that the gentlemen who are interested in the mill industry intend to vote conscientiously and with an honest regard to the interests of the country, without any thought of how their pockets will be affected, and I am equally entitled to claim that it shall be believed that the official members of this Council will vote on this subject without any reference to questions which affect their personal receipts and salaries.

"I wish also to make one remark regarding what fell from my hon'ble friend Sir Griffith Evans when he referred to the debateable question whether the counts should be fixed at 20s or 24s, and to the question being *sub judice*. He said that, if we accept the Secretary of State's decision and take these counts at 20, we would be doing an injury which could hardly be repaired to the mill industry of this country; but I think that he omitted to notice that, supposing

the Secretary of State to be right and the facts from Bombay to be wrong, we should be doing an injury which might be irreparable to the Manchester industry in taxing those importations of their yarns which may be found to fall within those counts. Although at present there is no sufficient information before the Council to decide eventually which way the preponderance of evidence may lie, it is possible that the view of the Secretary of State may turn out to be the correct one. On the whole question I entirely agree with my hon'ble friend Sir Henry Brackenbury that the Council will be doing a dangerous and impolitic thing if it opposes the proposals of Government on this subject, and that we shall likely be involved in a serious political and financial danger if the Secretary of State follows out the line, which it is certainly in his power to adopt, of vetoing the Bill which is so essential for equalising the finances of this country."

His Excellency THE PRESIDENT said :—" I have not intervened in the discussions on this Bill, for I felt certain that in the hands of my hon'ble colleague the case of the Government would be placed before the Council in a manner that would not only justify the necessity of the course we thought it right to pursue, but would demonstrate our desire to deal in a fair and considerate spirit with the interests involved. But before I put the question I desire to say a very few words.

" It is alleged in certain quarters—and I am not quite sure that there have not been echos within this room—that, in consenting to introduce this Bill in its present form, the Government has made a cowardly surrender, and has given way to a pressure which, if not unconstitutional, is, at any rate, unusual and oppressive.

" I wish to take exception to any such statement, and I am prepared to show that the Government of India has maintained, and intends to maintain, firmly and without wavering a consistent policy in this matter. So far as the individual action of my colleagues and myself is concerned, Sir Henry Brackenbury, in the discussions on the last Tariff Bill, and again to-day, has said that we are bound to obey the orders given by the proper and constitutional authority. But, for my part, I do not think that exhausts the question. It is claimed that members must be free to speak and vote in this Council

for the measure they honestly think best. I can accept that proposition only with the qualification that they duly recognise the responsibility under which they exercise their rights in this Council. Only in an entirely irresponsible body can members act entirely as their inclination leads them. In every legislative body a man must sit, unless he has an hereditary right, by what in modern parlance is called a mandate, and that mandate must be given by some authority. I need not remind you that in a Parliament a man is not free to act exactly as he pleases; he is distinctly subject to the mandate he has received from his constituents; and practice has shown that even this is not sufficient, but that to make Parliamentary government effective it has been necessary to introduce party management; and the bonds of party, in the present day, certainly show no sign of being relaxed. Here we have no election, and I am glad to say no party, but every man who sits here sits by the authority and sanction of Parliament; and to say that he can refuse to obey the decisions of Parliament would be absurd. But that is not all. Parliament has provided for the government of the Indian Empire. The British Raj can be provided for in no other way. Parliament has allotted his proper place to the Viceroy, as the head of the Executive in India, and it has given him a Council for the purpose of making Laws and Regulations which cannot have powers in which he does not share. But the Viceroy admittedly is not invested with supreme authority, but, as I understand it, is by distinct enactment entrusted to the Secretary of State and his Council; and to speak of this Council as supreme—if that means that it has independent and unfettered authority—is to say what is not the fact.

"I speak with some deference, after what fell from the Hon'ble Sir Griffith Evans; but, with all respect for his legal authority, I think that he is not correct in the view he took that a member of this Council is unfettered in the vote he gives here, or that he could 'hand over his responsibility' to the Secretary of State. I am inclined to think that the Hon'ble Mr. Mehta took a more correct view of the matter when he said that he would 'leave the responsibility' with the Secretary of State, because the responsibility which the Secretary of State would exercise would be the responsibility which belongs to him.

"I feel most strongly—as I believe every man who has had even the smallest share in the administration of the affairs of this Empire must feel—the paramount importance of maintaining the credit of the British rule for justice and impartiality; and I have seen with much regret some attempts to divert the discussion of this and other matters into an attack on the motives which are supposed to actuate certain decisions. I, for my part, do not envy the responsibility of the man who makes that sort of insinuation. I undertake to say that it is absolutely necessary that the gauging of Parliamentary opinion should be done in England, and cannot be done from here. The Secretary of State interprets to us the will of Parliament, to which he is directly responsible for the proper performance of his duty; and I protest against the supposition that any man, of any party, taking upon himself the great office of Secretary of State for India is so unworthy of the tradition of British statesmen that he does not do his utmost to bring to the discharge of his responsible duties a spirit of impartiality and fairness; and, if that is so, I also protest against our—I will not say obedience to, but rather—acceptance of his decisions being anything less than ungrudging.

"Now let me for a moment apply the principles I am advocating to the history of the measure now under consideration. Last March the Secretary of State decided, and we accepted the position, that the time had not come when Parliament would sanction the imposition of the duties on cotton. But he qualified that decision in terms I was authorised to communicate from this chair, which seemed to me then, and seem still, to ensure fair treatment to any demand our emergencies might compel us to make. One thing, however, in my opinion, was requisite, and that was that the Government of India should in the interval pursue a firm and consistent financial policy. We have done so; we should not have done so had we followed the counsel we received from some irresponsible advisers. What is the result? The Secretary of State has told us the grounds on which, and the conditions under which, he can undertake the responsibility (a very great responsibility) of justifying before Parliament the policy which we propose. Again he has done so in terms that show his desire to arrive at a fair and impartial conclusion, because on the one point on which an amendment is moved to-day—a point on which admittedly there is a difference of opinion—he has consented to such a wording

of the Bill as provides for the ultimate decision being based on full and sufficient information.

"The Hon'ble Sir Griffith Evans took the view that no evidence was furnished from England; but I would remind the Hon'ble Member that the Secretary of State has in his hands the evidence which was furnished from India, and he has the evidence which he has obtained himself, and that it is on a comparison of these two branches of evidence that he has come to the conclusion that he must insist upon the Bill being framed as it is now proposed. I would also venture to point out that it seems to be argued in this matter as if the lowering of the line to 20s was putting an additional restriction upon India. I wish to remind you that the condition laid down for the re-imposition of the cotton-duties at all was this, that there should be no element of protection, and that was interpreted to mean that there should be a countervailing excise. That principle being accepted, the natural meaning of a countervailing duty would be that the excise should be co-extensive with the import-duty; the exemption of the lower counts at all is a concession on the part of Her Majesty's Government, and they must decide the question how much they ought to concede in that matter.

"Now, I cannot conceive a greater calamity than this Council voting against this Bill, or adopting an amendment which would be fatal to it. Far be it from me to deny that it is within the competence of the Council to throw out any measure. It would be its duty so to act if the public weal was endangered. But, as I have endeavoured to point out, the vote of this Council, and, as I maintain, of every individual member of it, is given under the responsibility of doing nothing to dislocate the complicated machinery by which this great Empire is governed; and I agree with the Hon'ble Sir Henry Brackenbury that, if this Council does adopt this amendment, it will take upon its shoulders the responsibility of losing this Bill, and of losing, perhaps altogether, the financial resources which we so much need. So far as the Government of India is concerned, it has in this case considered, and will in any other case fully and fairly consider, and forward for consideration, the views which prevail in India, which it is their duty to make themselves acquainted with; but the Government of India do not now, and I am sure will never, shrink from putting before this Council proposals on which, after due conference, a decision has been arrived at in the proper and constitutional form, and from asking the Council, as we do now, to pass the necessary legislation."

The Council divided:—

Ayes.	*Noes.*
The Hon'ble Sir Griffith Evans.	The Hon'ble Mr. Fryer.
The Hon'ble Mohiny Mohun Roy.	The Hon'ble Mr. Clogstoun.
The Hon'ble Prince Sir Jahan Kadr Meerza Muhammad Wahid Ali Bahádur.	The Hon'ble Dr. Lethbridge.
The Hon'ble Mr. Playfair.	The Hon'ble Sir Antony MacDonnell.
The Hon'ble Gangadhar Rao Madhav Chitnavis.	The Hon'ble Mr. Westland.
The Hon'ble Mr. Mehta.	The Hon'ble Sir Charles Pritchard.
The Hon'ble Bábá Khem Sing Bedi.	The Hon'ble Lieutenant-General Sir Henry Brackenbury.
The Hon'ble Maháráj á Bahádur of Durbhanga.	The Hon'ble Sir Alexander Miller.
The Hon'ble Fazulbhai Vishram.	His Excellency the Commander-in-Chief.
	His Honour the Lieutenant-Governor.
	His Excellency the President.

[The Hon'ble MR. STEVENS did not vote.]

So the amendment was negatived.

The Hon'ble MR. WESTLAND then moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 3rd January, 1895.

J. M. MACPHERSON,
Offg. Secy. to the Govt. of India,
Legislative Department.

CALCUTTA;
The 4th January, 1895.

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